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REPORT  
OF THE  
COMMISSIONERS  
APPOINTED TO  
REVISE THE CODE OF PENNSYLVANIA.

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## MESSAGE.

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EXECUTIVE DEPARTMENT,  
Harrisburg, Jan'y 17, 1853. }

*To the Senate and House of Representatives :*

GENTLEMEN :—I have the honor herewith to transmit the report of the commissioners appointed in pursuance of a resolution of 4th May last, "authorizing the Governor to appoint commissioners to revise the code of Pennsylvania," with the several bills prepared by the said commissioners.

WM. BIGLER.

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## REPORT.

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The undersigned, commissioners appointed under the resolution passed the 4th day of May, 1852, "authorizing the Governor to appoint commissioners to revise the code of Pennsylvania," in proceeding to the discharge of their duties, found those duties limited and prescribed by the resolution authorizing their appointment, as follows :

I. To digest and simplify the general tax laws of the State, and to report them to the next Legislature.

II. To prepare drafts of general laws to be submitted to the consideration of the next Legislature on the subjects :

1. Of selling real estate by guardians, executors, administrators, and others, acting in a representative capacity.

2. Of the creation of corporations.

3. Of the payment of claims against the Commonwealth.

4. Of divorces.

"In order to lessen as much as possible the necessity for special legislation."

It will thus be seen that the provisions of the resolution itself are not so extensive as the title would indicate.

Our commission organized in the city of Philadelphia on the 13th of July last. The labor of attending to particular portions of the subject was primarily distributed among the individual members of the commission, so as to embrace them all. Each branch having been so examined in detail, the whole were then examined and revised by all the members, and the final disposition of them thus made. Much time and reflection have been devoted to the subjects committed to our charge, and the result is now submitted in the bills accompanying this report, with explanations, under appropriate heads.

### *General Tax Law.*

Under the general power contained in the resolution from which we derive our authority, we have attempted to remodel the tax laws, so as to render them equal and just in their operation, and more certain and explicit in their terms.

## REPORT OF COMMISSIONERS

The object of taxation is revenue, and hence, by increasing the amount and variety of taxable property, you increase the revenue, and thus, as the revenue is increased, the rates of taxation may be reduced. The immediate effect of the bill we have the honor to submit, will be, largely to increase the revenue; and the remote effect will be, largely to reduce the burdens heretofore imposed, by equalizing the assessments.

It is an important fact, that heretofore a large portion of the taxes have been derived from real estate. It is right, perhaps, that the realty, which is visible, tangible, and cannot be driven away, should be taxed at a rate beyond what could be safely imposed upon more volatile property. But the proportion between real estate and personal property is too large.

The principal features of the bill have been framed with a view of getting a fair and equal assessment. Of all the real and personal property in the Commonwealth, no State is more deeply interested in a well regulated system of revenue than Pennsylvania; and while her public debt is large, her resources are ample to meet every demand, if the revenue laws are justly and equally applied to the property of her citizens.

The proper imposition of taxes upon the people is one of the highest duties devolving upon the government. But in the adjustment of our revenue system, we are met at the threshold with an almost insurmountable difficulty. We mean the election of assessors in the wards and townships by the popular voice. The assessment of property is the first step in any revenue system. If a mistake is made here it cannot be corrected. No one who has examined the subject can fail to appreciate these remarks, or hesitate to adopt such measures as will control this fundamental error.

In Maryland the assessors are named in an act of Assembly, and each small county forms an assessment district, while the large counties are divided into two or more districts. This is, undoubtedly, an improvement upon our system; but we have not deemed it expedient to make so radical a change. The people are accustomed to elect assessors, and would not, perhaps, be satisfied if deprived of this ancient custom. We have, however, provided additional machinery, by which the present system will be greatly improved.

Prior to 1840, it was the practice in many, if not all the counties, to assess the real estate one-fourth or one-half less than its real value. This system, while it increased the rate of taxation, did not add to the amount collected from the people. But when the State tax was imposed, extending over the whole Commonwealth, it became necessary to adopt a uniform standard of value. Assessors were therefore required to assess real estate at its full cash value. How well this duty has been performed, is known to the Legislature and to the public. The effect of undervaluing real estate in times past, is felt even now, and nothing but a determined effort by the Legislature can elevate the standard of value by which assessments are to be made.

By the bill submitted, the assessor is authorized to subpoena witnesses and examine them upon oath in relation to the value of real estate, and to require the production of title papers, which will materially aid him in the performance of his duties. The board of revision which is provided for each county, has authority, also, to subpoena witnesses and to examine them under oath relative to the value of property. All discretion is taken away from the board. When the value of any property is ascertained, it must be increased or decreased from the value as returned by the assessor. The same principle is extended to the State Board of Revenue Commissioners.

For the assessment of personal property, we have, it is believed, introduced the only efficient system which can be devised. The assessors are furnished with a printed circular by the commissioners of the county, which they are required to serve upon every taxable inhabitant. The form of the circular is prescribed by the bill. Every taxable inhabitant must, within ten days after having received it, fill up the blanks as his property may require, and return it to the assessor under oath, the form of which is appended thereto. This feature is not entirely new, for in many respects it resembles the provisions of existing enactments. Under the present system, a very large proportion of personal property escapes taxation altogether.



This is especially true of moneys at interest, which are invested more or less secretly, and frequently without the knowledge of any person except the parties interested. The bill which we submit, compels every person to disclose the amount of such investments, and all other personal property. And why should he not do so? An assessor cannot accomplish impossibilities. The real estate he can find, for it is immovable and palpable; but he cannot ascertain the amount of money invested by each individual, unless informed by the party himself. Why, then, should he be compelled to guess at it?

The best evidence should always be taken, and as the party making investments knows the exact amount he owns or controls, he should be required to disclose it. Conscientious men now pay more than their share of taxes, while those less scrupulous evade the payment of the amount justly due by them. If it be desirable to equalize taxation, then all property in the Commonwealth should be assessed; and in order to do this, those who possess the information must impart it to the assessor. Existing laws make it obligatory upon every man to answer such queries as may be propounded to him by the assessor, but as there is no penalty imposed for refusing to do so, little or no attention is paid to it. The return of personal property under oath by individuals owning or controlling it, is an effectual remedy for existing evils. The oath is the attestation of the truth of the return, and no man will hesitate to confirm in this solemn manner, any statement of facts he may be required to make. Every citizen is interested in having the assessments fairly made, and it is as much his duty to render every assistance in his power, as it is the duty of the assessor to be vigilant and faithful in the performance of the high trust committed to his charge.

In case any citizen shall not make a return of his personal property, the assessor is required—after having ascertained its value as nearly as he can—to add twenty per cent. to the valuation. This addition is in the nature of a penalty; for if citizens will not conform to the assessment law, they must suffer as in other cases.

We have provided for a county board of revision, with enlarged powers and duties; and it will be seen by reference to the bill, that if any person, who has neglected to return to the assessor his personal property, may make it to the board of revision. In every such case, the twenty per cent. added by the assessor will be deducted; but should no statement be received, then the board of revision will add fifty per cent. to the valuation as returned by the assessor. This last addition, like the first, is intended as a penalty for the violation of a known duty. Should there be any individual reckless enough to disregard this provision of the law, it will be with the hope or certainty of being the gainer, even with those large additions to the valuation of his property.

We have continued the State Board of Revenue Commissioners with extended powers, but confined their duties to the equalization of assessments of real estate. It is believed, that by the provisions of the bill all personal property, or nearly so, will be assessed, and consequently taxed at its full value. Should the assessors not make full returns, the error will be corrected by the county boards of revision. Heretofore the Revenue Commissioners have not had power to subpoena witnesses, which has caused great embarrassment and delay, and in many cases wholly deprived the State of the testimony of important witnesses. This power is conferred upon them by the bill submitted.

By the provisions of the act of 1844, the Revenue Commissioners can only act upon the aggregate value of property in each county; and as the returns made by the county commissioners are, in the aggregate, by wards and townships, but little information can be obtained from them. The bill we report requires the commissioners of the several counties to return a transcript of each assessor's book, so far as relates to real estate, together with an aggregate valuation of the same by wards and townships, including personal property, under specific heads. This will enable the Revenue Commissioners to act intelligently and efficiently.

The property exempted from taxation by our bill is nearly the same as under existing laws. The policy of relieving from taxation the property of institutions of

learning in actual use is well settled; also churches, hospitals, and generally all establishments for public charity or benevolence.

We have extended the provisions of the 42d section of the revenue act passed in 1844, for the collection of taxes on the interest paid by any county or city, on any evidence of indebtedness issued, so as to include all companies incorporated by law. This is almost exclusively a new source of revenue, and will produce a large amount of money.

But it is unnecessary to particularize further. Nothing has been inserted which is not deemed essential to the efficacy and success of the bill. The bill must be considered as a whole, and it will require some examination fully to understand its various parts. The first effect of the bill will be, if passed as reported, and administered in the spirit it has been prepared, to increase the revenue to an extent which will astonish the public. Under our imperfect system of assessments, and the almost universal disposition to conceal from the assessor the amount of moneys at interest, and the value of other personal property, the amount received at the Treasury from taxes upon real and personal property has increased from \$553,911 38, in the year 1844, when the three mill tax was first imposed, to \$1,359,636 30 in 1852. The increase of revenue under the bill we report will be much greater than that just referred to. It is evident, therefore, that in a short time the rate of taxation can be considerably reduced, and would have been before now if all the property in the State had been fairly assessed.

In accordance with this opinion, we have inserted a section in the bill, that in the event of the revenue from real and personal property reaching the sum of \$1,800,000, at the close of the fiscal year 1855, then the tax shall be reduced to two mills. That such will be the result, we have not the slightest doubt. We have not deemed it prudent to reduce the existing rate in advance, because there is a possibility that the new law may be as inefficiently administered as the present one, and in that event the Treasury would be left destitute, and the credit and character of the Commonwealth suffer thereby. The bill will go into operation gradually. The triennial assessment is just made or being finished, and at the proper time will come under the supervision of the Revenue Commissioners. In the meantime, the county boards of revision will have acted upon the personal property, which will be the first visible effect of the bill.

In closing our report upon this branch of our subject, we cannot refrain from expressing the hope that the Legislature will adopt the bill as reported. The stringent provisions which have been inserted are its vitality; strike them out and the bill is not worth the paper upon which it is written. Heretofore the whole effort has been to conceal property from taxation. This feeling pervades all classes; and while there are individual exceptions, the immense majority act upon the principle, that it is morally right to deceive the assessor. It is to be hoped that hereafter this course of action will be changed, and that every individual will come forward cheerfully and disclose to the assessor the amount of his personal property, and that assessors will take care and value the real estate at its actual cash value.

It may be proper to say, that in digesting and simplifying the general tax laws, we have endeavored, as far as practicable, to ascertain the systems of taxation prevailing in other States, and have profited by their provisions, so far as we have found them applicable.

### *Sale of Real Estate.*

The drafting of a general law on the subject of selling real estate by guardians, executors, administrators, and others acting in a representative capacity, has been a work that required an examination, consideration, and labor, not apparent on the face of the bill herewith submitted. Whilst, on the one hand, it was desirable to extend the power to sell real estate, to avoid the necessity of so much special legislation, on the other, it was necessary to limit and circumscribe the exercise of that power, so as not to be abused, and to subject all applications for sales, in the cases contemplated,



to a strict scrutiny by the courts, and in no case to let a sale be decreed, or incumbrances created by default, or, as a matter of course, where not objected to, but to require the courts to examine all the facts in each case, before making a decree; and to require, in all cases, the fullest practicable notice to all the parties in interest. The existing laws for the sale of real estate of decedents, for the payment of debts, and for the maintenance and education of minor children; in cases of partition, where the heirs do not accept, and for the sale of the estates of minors in the cases specified in the acts of 1832, 1834, 1836, 1847, and 1851, have established a system in the cases to which they apply, and which are well understood in practice. With the provisions of these acts, except the last, it is not intended, generally, to interfere, except where the bill reported shall supply portions of the same. By the existing laws, provision has been made for applications to the orphans' court, and for decrees by that court to sell real estate in the following cases,

I. On the application of an executor or administrator, setting forth that the personal estate of the decedent is insufficient for the payments of debts, and the maintenance and education of his minor children, or for the purpose of paying his debts alone.

II. On the application of such executor or administrator, or of any person interested, setting forth that on the final settlement of the administration account, it appears that there are not sufficient personal assets to pay the balance, appearing to be due from the estate of such decedent, either to the accountant or to others.

III. On the application of a guardian, setting forth that the personal estate of the minor is insufficient for his maintenance and education, and for the improvement and repair of other parts of his real estate, or that the estate of said minor is in such a state of delapidation or decay, or so unproductive and expensive, that it would be to the interest and benefit of said minor, in the judgment of the said court, that the said real estate should be sold.

(See act of March 29, 1832, section 31).

This last provision, in relation to the sale of the real estate of minors, where they are "in such a state of delapidation and decay, or so unproductive and expensive that it would be to the interest and benefit of said minor, in the judgment of the court, to have the same sold," is substantially re-enacted by the act of June 16, 1836 (pamphlet laws, 682), which makes a slight change in the condition of the bond to be given by the guardian, *before the approval of the sale*, from that required by the thirty-third section of the act of 29th March, 1832, which requires the bond to be given by executors, administrators, and guardians, *before the order of sale is made*. The condition of the bond, under the act of 1832, is "for the faithful appropriation of the proceeds of such (or mortgage), according to their respective duties." The condition of the bond to be given by guardians, under the before recited act of 1836, is "for the appropriation of the proceeds of such sale for the use of said minor."

The forty-third section of the act of 24th February, 1834, has a provision in relation to sales by executors and administrators, that changes the provision of the act of 1832, before quoted, in regard to the time when the bond is to be given and its condition. The section is as follows: no executor or administrator shall have power to execute any order or decree of the orphans' court for the sale of any real estate for the purposes of distribution or otherwise, nor to receive the proceeds of the sale of any of the real estate of the decedent, made by the authority of law, until he shall have given security, to be approved by the orphans' court, having jurisdiction of his accounts, for "*the faithful application of the proceeds of such real estate according to law.*" (Purdon, 479).

By the act of 16th March, 1847, the proper orphans' court, on a petition setting forth that vacant ground belonging to the estate of any minor, is unproductive and expensive, and that it would be to the interest and benefit of such minor that the ground should be let on ground rent, may direct the same to be done in the manner therein prescribed, (Purdon 1376). The act of 3d April, 1851, authorizes the orphans' court to decree the sale of the estates of minors, "when it shall appear to the orphans' court, of the proper county, that it would be to the interest of such minor

that the same should be sold, &c." (Purdon 1377). This act also authorizes the sale of estates for life, and trust estates in certain cases, and prescribes the mode of proceeding; and directs that before any sales made, under the provisions of the act, shall be confirmed, the person or persons, to whom the order of sale shall be granted, shall file in the office of the clerk of the court, a bond with two or more sureties, to be approved by the court, in double the amount of the proceeds of sale, conditioned "*for the faithful appropriation of such proceeds.*"

By the act relating to lunatics and habitual drunkards, passed June 13, 1836, (Purdon, 780), provision is made for the sale or mortgage of their estates, under the supervision of the courts of common pleas, in the cases and in the terms therein specified, which will be found in sections 20 to 31 of that act, inclusive. The security required to be given by the committee is to be "to the satisfaction of the court for the faithful application of the proceeds of such sale or mortgage, according to the duties of his trust."

By the act of February 24, 1834, section 12 (Purdon, 474), it is provided, that "all powers, authorities, and directions relating to real estate, contained in any last will, and not given to any person by name or by description, shall be deemed to have been given to the executors thereof; but no such power, or authority, or direction, shall be exercised or carried into effect by them, except under the control and direction of the orphans' court having jurisdiction of their accounts."

The cases to which the existing statutes authorizing the sales of real estate apply, do not seem to cover all the cases in which sales become absolutely necessary for the interest of all concerned. These cases furnish the occasion for repeated applications to the Legislature for special acts authorizing such sales. It often happens that bills for these purposes are passed as local measures, without much examination, and often without notice to all the parties in interest. This course consumes much of the time of our legislative bodies, and from the very constitution of the Legislature, and their mode of transacting business, it must happen that the same examination and consideration of the subject cannot be given to it as would be the case where the matter is committed to the courts, with a requisition that full notice be given to all parties interested, and the whole matter subjected to the rigid scrutiny of the judges.

The bill which we report on this subject confers the additional powers on the courts, under careful provisions for notice and examination, and for keeping in view the objects of the donors, devisors, or grantors of such estates.

There will also be found in it a provision for uniformity in time when the security is to be given by persons making sales, in all cases, whether under the existing laws, or under that now proposed, and in the conditions of the bonds to be given.

The bill is drawn with such qualifications and restrictions, that, while it will lessen the necessity for special legislation on this subject, it will not change or unsettle any principle of law. The purpose in view is to substitute the courts for the Legislature, with the advantage of giving a fuller opportunity of a hearing to all parties interested—a more thorough investigation of the facts and the law applicable to each case. The conversion of real into personal estates, is allowed under such restrictions, as not to conflict in the law, and without in any degree impairing the rights of any parties interested; they being secured in the same rights in the personalty, that they had in the real estate sold or converted.

Allowing sales under this bill, the effect of barring entails and contingent remainders in certain cases, it accomplishes no more than can now be effected by other proceedings under the statute or common law. In these respects the judges of England, centuries ago, set themselves in opposition to the aristocracy of that country, and unfettered and made alienable real estate. This purpose was one of the first thoughts of our forefathers of the Revolution; for in our first constitution of 1776, it is provided in the language of command, that "the future legislation of this State shall regulate entails in such manner as to prevent perpetuities." Section 37.

Yet our own law is open to many of the evils of perpetuities, or the tying up estates for long periods, without the power of alienation, inasmuch as they may be



put to accumulate the increase for a century to make a single devisee immensely rich at the end of that time, and to leave all intermediate generations to starve; and so was the English law until towards the close of the reign of George III., but is now amended so as to be much more in conformity with our republican institutions than our law. As the law now stands here, an estate may be made to accumulate and double many times, so long as any number of designated persons, living at the death of the testator, shall live, and twenty-one years and about nine months thereafter; and such persons can easily be so selected, as with said additional years to tie up the estate for a century. See Powell on Devisees' (4151) note. We have, therefore, added the tenth section to the bill, being in substance the English act of '39 and '40, George III., c 93, limiting the period of accumulation to the minorities of such minors as may be interested, and allowing them a living out of it, when without other means of subsistence. In this latter respect, this bill goes beyond the English act.

Should it be suggested that the existing laws are sufficient in relation to barring entails, and those contingent remainders that may be defeated, the answer is, that these will not avail for minors or married women having separate estates, and such persons, although possessing large real estates, which are unproductive, might be left to suffer for want of an adequate income. Besides, why double the expenses of legal proceedings in the little understood and complicated forms of suffering a common recovery, when no opportunity can be so favorable as that presented by this bill, affording a full hearing to all parties, an impartial, judicial investigation, and the sale of an indefeasible title under a decree of the court?

In the preparation of this bill, there has been an examination of nearly all the laws that have been passed from the first settlement of the Province to the present time, in relation to the sale, purchase, and exchange of particular estates, belonging to private individuals, corporations, or held for some public, charitable, or religious use, that no longer required the ownership of such real estate, or needed its proceeds. Such enactments exceed a thousand cases. The bill has been framed to cover these cases, and we believe that it would be found in practice, to include more than nine-tenths of those which have heretofore been the subjects of special and private legislation.

In addition to the enumerated cases we have introduced in the second section of the bill, a general power intended to cover all cases of trust or powers, and wherever any party in interest is under any legal disability.

It will be perceived that in some cases the court may approve of the terms, and authorize private sales and lettings on ground rents. It is well known, to all who are experienced in the sales of real estate, that in letting town lots on ground rent, a much higher price can be obtained than by a public sale for cash, to the extent of twenty-five or fifty per cent., and in the sale of unproductive back lands, the loss by requiring cash sales would be generally still greater. Indeed it very generally happens, that such properties are held in undivided shares with persons of lawful age and ability to make title, who desire by private negotiation and giving liberal credits, to obtain the best price for their property, and their success would always, in such cases, be a text and guide for the court, and a lawful co-operation in the sale or letting for minors, married women, &c., would secure them the same advantages, and avert from them great sacrifices.

To prepare town lots for sale, &c., and give them fronts on streets, and the proper shape, exchanges are of constant and necessary occurrence with adjoining owners, and these cannot be effected by public sale, or if so, there must be a power to purchase those portions needful to square the lots of those under disability. In such cases, and in cases where property will readily divide, there would be great convenience and saving in empowering the courts to approve of exchanges, partitions, and purchases of grounds needful to square or properly manage the property of minors, &c.

Again. Those engaged in the practice of the law, and others familiar with titles, meet with frequent cases where the objects of trusts, and charitable, or religious uses cannot be carried into effect, or continued in accordance with the original intent of

the gift or dedication. Our public schools have superseeded many others, and from removals, deaths, and other changes, congregations and other associations become extinct, and in other ways the objects of trusts and dedications fail, and the property held becomes dead and valueless as to any useful purpose. Besides, school, meeting houses, &c., left by changes, unused, cases have occurred of lots devised for various purposes, and by their becoming covered by houses, and those purposes failed, and the grounds were not used for the purposes intended, yet the proceeds or income might very properly be applied so far as needed, for carrying into effect the original trust. We are aware that the English chancellor has sometimes committed gross violations of justice in divesting property intended for one religious sect, to the use of the established church, &c., but any such wrong or perversions of trusts and charities is guarded against in this bill, and no judge in this country would repeat the outrages referred to, as having sometimes characterized the conduct of English chancellors.

In conclusion, we may say that there is nothing dangerous in this bill to vested rights, or the security of property. It takes away no person's rights, but converts that which is dead and unproductive, into productive estates, and thus to make property subserve the purpose intended, in the maintenance and comfort of its owners, or those who should enjoy its fruits and products. There is nothing authorized by this bill that has not been repeatedly authorized by the Legislature, and in every line we have followed established precedents.

### *The Creation of Corporations.*

The subject of the creation of corporations has occupied much of our deliberations, from the difficulty we have found in framing a general law, giving the power to create these artificial bodies to other hands than those of the immediate representatives of the people. Corporations of a local character, and which would not affect the interests of large sections of the State, or produce an injurious conflict of interest and feeling, may be safely entrusted to the courts; while those of a more general character, such as the incorporation of railroad companies, and other incorporations which might be named, should only be suffered to have an existence by the usual and solemn form of an act of Assembly.

It was the policy of the State, at an early period, to get rid of that class of legislation usually called special or private legislation, and of late years has occupied so much of the time of the Legislature, and forms so large a portion of the statutes contained in the pamphlet laws. So early as the year seventeen hundred and ninety-one, the general Assembly adopted an act authorizing the Supreme Court and Attorney General to charter persons associated for literary, charitable, or religious purposes. In the preamble to that act, they state what is a matter of more serious complaint at the present day, than it could have been when this statute was passed. The preamble is in these words:

"WHEREAS, a great portion of the time of the Legislature has heretofore been employed in creating laws to incorporate private associations, and it would not only be more advantageous to the public, but also convenient to individuals who are desirous of being so incorporated, that the same might lawfully be effected without an immediate application in all cases to the General Assembly of the Commonwealth; Therefore,

*Be it enacted, &c."*

The provisions of the act of 6th April, 1791, were extended by the act of 8th April, 1833, to the incorporation of beneficial societies and associations, and to fire engine and hose companies. By the act of 13th October, 1840, the same powers conferred upon the Attorney General and the Supreme Court, by the acts above alluded to, were given also to the Courts of Common Pleas of the several counties.

On the 16th June, 1836, an act was passed to authorize the Attorney General and the Governor of the Commonwealth, to allow the incorporation of citizens of this Commonwealth associated for the purpose of making and manufacturing iron, from the raw material, with coke or mineral coal. The act of 13th April, 1838, extended



the benefits of this law to all citizens of the United States, so far as to allow them to become stockholders of any corporation created under the act to encourage the manufacture of iron with coke or mineral coal.

An act of 1st April, 1834, gave the Courts of Quarter Sessions of any county, with the concurrence of the grand jury, the power to charter boroughs containing not less than three hundred inhabitants. This was further extended by the act of 3d April, 1851, so as to enable said courts to charter boroughs without regard to the population thereof.

By the act of 7th April, 1849, entitled "An Act to encourage manufacturing operations in this Commonwealth," persons associated for the purpose of carrying on the manufacture of woollen, cotton, flax, or silk goods, or of iron, paper, lumber, or salt, in this Commonwealth, and shall have subscribed not less than twenty thousand dollars, on signing a certificate in writing, in which shall be stated the corporate name of said company, and the objects for which it has been formed, the amount of its capital stock subscribed, and complying with certain other stipulations therein enumerated, on said certificate being acknowledged before some officer competent to take the acknowledgment of deeds, and having the same recorded in the office for recording of deeds, in the county in which the business of the company is to be carried on, and a copy of said certificate, certified by the recorder, filed in the office of the Secretary of the Commonwealth, shall thereupon become a body politic and corporate, in fact and in law, for the term agreed upon, not exceeding twenty years from the filing of said certificate.

By the act of 26th April, 1850, the provisions of this law were extended to companies formed for the manufacture of glass; and by the act of 12th April, 1851, to companies formed for the purpose of manufacturing articles made from salt; and by the act of 14th April, 1851, it was extended to the business of printing and publishing.

By the bill we have submitted, the provisions of the act of 7th April, 1849, are still further extended, so as to embrace companies formed for mining coal, and for mining and smelting copper, lead, tin, or zinc ores, and for quarrying marble or slate, with the right of preparing for market the produce of their said mines and quarries and vending the same.

By the third section of the bill herewith presented, the stockholders of the companies hereafter incorporated, in pursuance of the provisions of this act and the act to which this is a supplement, as well as the several supplements thereto, are to be held jointly and severally liable, in their individual capacities, for all debts and contracts made by said companies, for all labor done, and for all machinery and other materials furnished for said companies respectively, to be collected as is provided in the act of 7th April, 1849. This we deem necessary for the protection of that class of the community who are the employers and creditors of said companies, and in order to place such corporations on an equal footing with the private citizen. If persons wish to have the advantages of greater capital, associated effort, and a common seal, for the purpose of engaging in pursuits that come in competition with those of the private citizen, they should be required to pay their debts, and to satisfy that class of creditors who would be especially the sufferers from the failure of the corporate means of such companies. We are well aware of the rapid development of the resources of the country, effected by reason of the greater means of corporations, in those enterprises which require an amount of capital which is generally beyond the reach of individuals, but that should not render us unmindful of the obligations that they should incur for the benefits conferred upon them.

We have also provided in the 4th section of the bill, in relation to granting charters, that the certificate of association shall, in all cases, before being recorded, be submitted to the Attorney General, and be by him certified to be properly drawn and signed, and that the same is in conformity with the constitution and laws of this Commonwealth.

*Payment of Claims against the Commonwealth.*

The subject of the allowance of claims against the Commonwealth for damages by reason of the construction of the public improvements, and from casualties upon them and otherwise, has been a prolific source of legislation. The evil appears to be on the increase, as many claims which have been examined and rejected, when all the facts were within the reach of the parties applying, have been from year to year pressed upon the attention of the Legislature with increasing importunity. These old and stale claims are often bolstered up by hearsay testimony and pretended equities, on the presumption, we suppose, that the equities of a case grow stronger as the evidence to support it becomes more feeble.

Such cases would not bear the scrutiny of a judicial tribunal, and by forcing such applications to be made to the courts, where all the facts can be carefully examined, and where the Commonwealth will be represented by counsel, the State will be relieved from the applications themselves, and the Treasury from this exhausting annual depletion; while those who are really meritorious claimants will have ample justice done them. It is utterly beyond the range of probability that in the hurry and bustle of a session of the Legislature, when public business is pressing upon the attention of the members, that they should be able to devote as much time and scrutiny as would be requisite to a full understanding of all the facts in applications of this character.

The testimony in many instances is exceedingly informal, and while many claims are allowed that have no merit in them, some no doubt are rejected that should be favorably considered. The passing of claims is generally looked upon more as a matter of good management, and perhaps attributable to the personal influence of members having charge of them, than as an evidence of the merits of the claims themselves.

By the bill we have submitted, the Legislature is relieved from applications of this character, and they are transferred to the courts of justice. For this we think the constitutional power is ample.

By the eleventh section of the ninth article of the Constitution of Pennsylvania, it is provided that "suits may be brought against the Commonwealth in such manner, in such courts, and in such cases as the Legislature may by law direct."

It is not necessary to go into much detail of the machinery of the bill presented. An issue is formed on the presentation of a petition, verified by the affidavit of the claimant, to the Court of Common Pleas of the county where the claimant resides, or the supposed damage may have arisen, on due notice having been given to the State Treasurer and Auditor General with a specification of the items and nature of such claim. Writs of error and appeals are allowed and the payment of costs as in cases between individuals. After a case has been adjudicated and a final judgment rendered, if in favor of the claimant, the prothonotary makes out a certificate under his seal of office of the judgment, which certificate is forwarded to the Auditor General, who draws his warrant on the State Treasurer, who is then authorized to pay the amount of the said judgment and costs, out of any moneys in the Treasury not otherwise appropriated, in the same manner as if said sum had been appropriated by an act of the Legislature.

*Divorces.*

Our law of divorce has been principally borrowed from the Scottish law, and it differs from the English law upon the subject in this, that in England no divorce can be granted by the courts from the bonds of matrimony for any cause arising after marriage. The English courts can only grant divorces *a mense et thoro*, even for adultery; the power to dissolve the marriage contract for anything, except that which renders the marriages void *ab initia*, being in the Parliament alone; and that body never grants a divorce except upon the fullest evidence of the facts, generally requiring that they shall have been established by a trial in a court of law, where the



parties can be heard, and in all cases that the party can have the opportunity of hearing, answering, and, if they can, refuting the allegations.

Whilst the marriage contract is of a solemn nature, and ought never to be dissolved for light or trivial causes, as its indissolubility, except under very peculiar circumstances, is necessary to the moral purity of the parties to it, it has never been the policy of our Commonwealth to hold the parties bound where there has been a studied and habitual disregard of the solemn and sacred duties connected with it by either of the parties. Hence, the commission of adultery by either of the parties, and wilful and malicious desertion without sufficient cause for a sufficiently long space of time to indicate that the party does not mean to return to his or her partner, have for a long time been held to be sufficient reasons to enable the injured party to obtain a divorce from the bonds of matrimony.

To these were added, by our act of March 13, 1815, cruel and barbarous treatment, rendering the condition of the injured party intolerable and life burdensome, and thereby forcing her to withdraw from her husband's house and family, which had theretofore only been sufficient to entitle the party to divorce from bed and board.

The time during which wilful and malicious desertion should continue to entitle the party to a divorce has been established by our laws at two years. Prior to the act of 1850 it was necessary that the two years should have transpired before the filing of the petition or libel for divorce. By that act the petition may be filed at any time, not less than six months after there has been an actual desertion, but no decree of divorce can be made until there shall have been a wilful and malicious desertion persisted in for at least two years.

Whilst the marriage contract should never be lightly dissolved, and too great facilities afforded for its dissolution must necessarily tend to lessen the happiness of the married state and the reciprocal regard and deference for each other's wishes that ought always to characterize this sacred union of marriage, and tend to the injury of morals generally, there would seem to be some additional cases, besides those now provided for by law, in which the marriage contract should be dissolved, and the power to do which ought to be vested in the courts, where the whole matter can be examined with judicial care and caution.

The constitution of Pennsylvania, art. 1, sec. 14, contains a provision on the subject of divorce to the following effect: "The Legislature shall not have power to enact laws annulling the contract of marriage in any case where by law the courts of this Commonwealth are, or may hereafter be empowered to decree a divorce." This provision was embodied into the constitution of 1838 in order to check legislative divorces, which had become so frequent as to be a serious evil. In many cases they were granted without the knowledge of one of the parties, and most generally upon the *ex parte* statements or proofs of the party applying, without giving the other party an opportunity to be heard. Under this constitutional provision it would be wise in all cases of legislative divorces that the causes of such divorce should be specified in the act dissolving the marriage contract; for the supreme court has held, and with great propriety too, that the jurisdiction of the Legislature upon the subject is now, under this constitutional provision, a limited one, and if the jurisdiction does not appear from the act itself, the party may contest its validity, and show that the causes assigned to the Legislature for the divorce were such as would have given the court jurisdiction of the case, and hence that the legislative divorce is a mere nullity. (See *Jones vs. Jones*, 2 *Jones' Reports* 357.)

We have prepared a bill on the subject which is herewith submitted, authorizing the courts to dissolve the marriage contracts, in cases of frauds and impositions practiced upon minors, who have been inveigled into marriages without the consent of their parents or guardians, and also where the marriage may have been of fraud, force, or coercion, and the injured party has not subsequently confirmed the contract. To these we have also added the cases where parties have voluntarily separated from each other for the period of six years, except where such separation may have been the result of the adultery or cruel and barbarous treatment of the party applying for the divorce.

The proceedings to be conducted in like manner as is now done in the cases to which our existing laws extend, with the right of appeal.

*Election Districts.*

The foregoing subjects are all that were directly referred to us by the resolution under which we were appointed. But there is another of considerable importance, which no doubt was intended to be committed to our charge but by a mere oversight was not included in the resolution.

The Governor in his message, dated the 25th March, 1852, called the attention of the Legislature to the necessity of providing a mode by which the places of holding the general elections could be changed without applying for legislation in every case; and as the object of providing general laws, upon certain subjects, is to lessen, as much as possible, the expenses of legislation, it may be fairly inferred that this subject is within the spirit of the resolution.

By the fifty-sixth section of the act of 2d July, 1839, provision is made for changing the places of holding the elections for ward and township officers. This provision is a vote by the people, as directed by the section referred to. We propose to extend this section to changing the places of holding general elections, and also to extend the provision of the election laws, so far as they are applicable to such elections. This is required in order to prevent frauds—to secure order, and to secure fair elections. A new section is added to authorize the Court of Quarter Sessions to appoint the officers to hold the first election in every township created by said court, there being none in law authorizing the holding of such election.

We have thus briefly as we could, explained the bills we have the honor to report, and shall take great pleasure in further explaining to any committee or member of the Legislature every provision inserted in the bills.

All of which is respectfully submitted.

J. M. PORTER, E. A. PENNIMAN, J. ELLIS BONHAM,	}	Commissioners.
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*Harrisburg, January 17th, 1853.*



AN ACT PROVIDING FOR THE ASSESSMENT AND COLLECTION OF  
STATE AND COUNTY TAXES.

*Of Property subject to Taxation.*

SECTION 1. All property, real and personal, in this Commonwealth, not herein expressly exempted, shall be subject to taxation for State and county purposes, as provided in this act.

SECTION 2. Real estate shall, for the purposes of taxation, be construed to include all lands within this Commonwealth, and all buildings and other things erected on or affixed to the same, including ground rents, ferries, fisheries, and wharves.

SECTION 3. Personal estate shall, for the purposes of taxation, be construed to include all goods, chattles, moneys and effects, wheresoever they may be; all moneys at interest, including mortgages, public loans, stocks, bonds and securities of every kind owing by solvent debtors, whether within or without the Commonwealth; all income from salaries or emoluments of office exceeding four hundred dollars per annum, derived by virtue of the constitution or laws of this Commonwealth; and all income, exceeding four hundred dollars per annum, derived from any trade, profession or employment; and all other property, of whatsoever kind, not comprised in the definition of real estate, in the preceding section.

*Of property exempt from taxation.*

SECTION 4. The following property shall be exempt from taxation, namely:

*First.* The property of the United States and of this Commonwealth, and the sinking fund of every city, county, incorporated district or borough created for the purpose of paying the debt or debts of the same.

*Secondly.* All court houses, jails, and other prisons, public squares of ground, all public market houses, poor or alms houses; all places for the meetings for the transaction of business of municipal corporations, and all houses used and occupied by engine and hose companies in active service; all churches, meeting houses, or other regular places of stated religious worship; all burial grounds belonging to any religious congregation, or to individuals actually devoted for family sepulchre, not exceeding one thousand square feet, and all free or public burial grounds belonging to any township, borough, district or city; all universities, colleges, academics, and school houses belonging to any county, city, borough, or school district, or incorporated, erected, endowed or established, by virtue of any law of this Commonwealth, or by private bounty, including the grounds necessary therefor, in actual use and oc-

cupancy, and from which no revenue is derived, furniture, cabinets of minerals, specimens, instruments, books and maps, and the property of the overseers of the public school, founded by charter in the town and county of Philadelphia; all insane, deaf, dumb, blind and Magdalen asylums; all widows and orphans asylums, all hospitals, houses of refuge, academies of fine arts and natural sciences, and libraries, including the Franklin Institute, in the city of Philadelphia, and literary institutions which are free and open for public use without charge; the bed, berm bank, and towing path of every canal incorporated by any law of this Commonwealth, together with the ground thereto attached, not exceeding one-eighth of an acre for each lock house or collector's office, and every reservoir in actual use for supplying the canal with water; the bed of every railroad incorporated by any law of this Commonwealth, together with the ground on each side, the width authorized by the charter; also, the offices, water stations and oil houses, with the necessary grounds for occupying the same, and depots on the line of the road for sheltering passengers, cars and engines used on said roads.

*Thirdly.* The household furniture of every person, not exceeding three hundred dollars in value, and also, wearing apparel, and the necessary tools or implements of a mechanic or farmer, to carry on his or her business, and all private libraries.

*Fourthly.* All mules, jacks, horses and cattle, less than three years old; and all swine and sheep, less than one year old; and all poultry.

*Fifthly.* The loans of this Commonwealth which are now, or which may hereafter be exempted from taxation.

#### *Duties of County Commissioners.*

SECTION 5. On or before the first of May, in the year 1855, and every third year thereafter, the commissioners of each county in the Commonwealth, shall issue their precept to the assessor of every ward, township, and borough therein, requiring him to take an account of all inhabitants above the age of twenty-one, and of all real estate and personal property made taxable by this act, together with a just valuation of the same; also, an account of all salaries or emoluments of office, derived by virtue of the Constitution or laws of this Commonwealth, and all incomes derived from any trade, profession, or employment, subject to taxation by this act.

SECTION 6. Every assessor shall, before entering upon the discharge of his duties, take and subscribe the following oath or affirmation, which may be administered by any person authorized to administer oaths; the blank form of said oath or affirmation shall be furnished by the county commissioners.

You, \_\_\_\_\_, do (swear or affirm), that you will, as assessor of the (ward, township, borough, or district), use your utmost diligence and ability to discover and ascertain all property, real and personal, within your (township, ward, borough, or district), and all other objects subject to taxation by law, and will take a correct and accurate account of the same, as directed by the precept of the commissioners; and that you will honestly and justly assess and value all real estate, and all personal property, according to the actual cash value thereof, and at a price for which you believe the same will bona fide sell; and that you will rate all salaries or emoluments of office, and all trades, professions, and employments, according to what you believe to be the actual yearly income derived therefrom; and that you will perform your duty as assessor of \_\_\_\_\_, with honesty and fidelity, according to law, without fear, favor, or affection, hatred, malice, or ill will. The above oath or affirmation shall be filed in the commissioners' office.

SECTION 7. The assessors in the city of Philadelphia and the several counties of the Commonwealth, shall, within sixty days from the date of the precept of the county



commissioners, assess and value the real estate and personal property of the proper ward, township, borough, or district, as the case may be, and return the same in a book, ruled and headed as follows, to the commissioners of the proper county.

# REPORT OF COMMISSIONERS

NAMES OF TAX- ABLE INHABI- TANTS.	PLACE OF RESI- DENCE OF TAX- ABLE INHABITS.	REAL ESTATE.	MONEYS AT
			<div>Total value of moneys at interest, invested as agent or attorney in Pennsylvania, not in public loans, stocks, or other securities, or in companies incor- porated by law.</div> <div>Total value of moneys at interest, invested as agent or attorney, in other States.</div> <div>Total value of moneys at interest, invested in Penn- sylvania, not in public loans, stocks or other secu- rities, or in companies incorporated by law.</div> <div>Total value of moneys at interest, invested in other States.</div>
			<div>Mortgages.</div> <div>Total amount due upon mortgages.</div> <div>Number of mortgages.</div> <div>Actual cash value of all wharf property.</div> <div>Actual cash value of all fishery property.</div> <div>Actual cash value of all ferry property.</div> <div>Total value of ground rents.</div> <div>Number of ground rents.</div> <div>Total value of town lots.</div> <div>Number of acres or feet in each town lot.</div> <div>Number of town lots.</div> <div>Total value of lands.</div> <div>Number of acres in each tract of land.</div> <div>Number of tracts of land.</div>



INTEREST.	Sick.
	Absent.
	Refused.
	Total value of personal property not otherwise specified.
	ABOVE THE AGE OF ONE YEAR.
	The cash value of sheep.
	The number of sheep.
	The cash value of swine.
	The number of swine.
	The cash value of cattle.
	The number of cattle.
	The cash value of mules and jacks.
	The number of mules and jacks.
TRADES, PROFESSIONS, AND EMPLOYMENTS.	ABOVE THE AGE OF THREE YEARS.
	The cash value of horses.
	The number of horses.
	Total amount of all income, not exceeding \$400 per annum.
	Total amount of all income derived from any employment, not otherwise taxed, exceeding \$400 per annum.
	Total amount of all income derived from any profession, exceeding \$400 per annum.
	Total amount of all income, derived from any trade, exceeding \$400 per annum.
	Household furniture, including gold and silver plate, exceeding \$200 in value.
	Total amount of money owing to non-resident creditors.
	Total value of moneys at interest, invested by any trustee, guardian, executor, or administrator, in other States.
	Total value of moneys at interest, invested by any trustee, guardian, executor, or administrator, not in public loans, stocks, or other securities, or in companies incorporated by law.

SECTION 8. On or before the first Monday in May, in the year eighteen hundred and fifty-three, and in each of the two years succeeding the triennial assessment, the commissioners of the respective counties in the Commonwealth shall send a transcript of such triennial assessment to the assessor of every ward, township, borough, and district therein, requiring him to take an account of all inhabitants above the age of twenty-one, and of all personal property made taxable by law, together with a just valuation of the same; also, an account of all salaries or emoluments of office, derived by virtue of the constitution or laws of this Commonwealth, and all incomes derived from any trade, profession, or employment, subject to taxation; and also to assess and value all real estate which may have been improved by the erection of new buildings or other improvements subsequent to the last triennial assessment. The oath or affirmation prescribed in the sixth section of this act, shall be administered to each assessor, and in the manner directed by that section.

SECTION 9. The qualified voters of each ward and township in the city and county of Philadelphia, shall, on the third Friday in March, one thousand eight hundred and fifty-three, and every three years thereafter, elect two persons, who shall be qualified to serve in the Senate of the Commonwealth, and qualified voters and residents of the ward or township, assessors in the following manner: each qualified voter of the ward, township, borough, or district, shall vote for one person for assessor, and the two persons having the greatest number of votes shall be declared elected.

SECTION 10. That the assessors so elected shall take and subscribe to the same oath or affirmation as is provided in the sixth section of this act; and whenever the two assessors of any ward or township in the city and county of Philadelphia cannot agree as to the value of any kind of property, or in the discharge of any other duty, the county commissioner holding the oldest certificate of election shall be called in to act with the assessors, when the opinion of either two shall determine the question or questions in dispute. The two assessors in each ward and township shall, in all cases, make the assessments together.

SECTION 11. That every tract of land or town lot in the several counties of the Commonwealth, with or without improvements, shall be valued and assessed separate and apart from each other, and in all cases the actual cash value of the improvements shall be added to the valuation of every tract of land or town lot.

SECTION 12. That every assessor in valuing any real estate shall visit the premises and personally examine the same, and shall have power to subpoena witnesses and examine them under oath or affirmation in relation to the value of said property, and to require the owner or owners of property to produce their title papers, and generally to exercise such powers as will enable him to ascertain the value of such real estate, which shall be assessed at its actual cash value.

SECTION 13. That the assessor of each ward, township, borough, or district in the several counties of the Commonwealth shall be furnished by the commissioners thereof with printed circulars, which shall be served by said assessor upon every taxable inhabitant; said circular shall be an exact copy of the assessor's book, with the oath or affirmation prescribed by the succeeding section attached thereto, which may be administered by any person authorized to administer oaths.

SECTION 14. That every taxable inhabitant, upon whom said circular shall be served, shall fill up the blanks as his or her property may require, except so far as relates to real estate under the denomination of lands and town lots, and return the same, under oath or affirmation, to the assessor of the proper ward, township, borough, or district within ten days from the date thereof; and every assessor is hereby authorized to administer the following oath or affirmation:

You (A. B.) do (swear or affirm) that you have not conveyed or transferred to any person any part of your personal property for the purpose of evading the payment of taxes thereon; and that the statement you have returned of the value of your personal property, and the amount of your salary or emolument of office derived by virtue of the constitution or laws of this Commonwealth, or the amount derived from your trade, profession, or employment (as the case may be), are just and true to the best of your knowledge and belief.



SECTION 15. That in case any person shall refuse or neglect to make out and deliver to the assessor of the proper ward, township, borough, or district, a statement of his or her personal property, as required by the fourteenth section of this act, or shall refuse to take and subscribe the oath or affirmation prescribed by that section, for the truth of such statement, or any part thereof, or in case of the sickness or absence of such person, the assessor shall proceed to ascertain the value of the property, and to enable him to do so he is hereby authorized to examine, on oath or affirmation, any person, touching the property of which no return has been made, and he shall assess the same twenty per cent. above its actual value, as nearly as can be ascertained.

SECTION 16. That in all cases where any person desires to correct the statement previously presented to the assessor, or in consequence of sickness or absence, to make a statement of the value of his or her personal property, it shall be received, and the correction made by the assessor of the proper ward, township, borough, or district, at any time before the assessment shall have been returned to the county commissioners, if it be made in the form and verified by the oath or affirmation prescribed by the fourteenth section of this act, but not otherwise.

SECTION 17. That the several assessors in each county shall give written or printed notice at least five days before the day fixed for the meeting of the board of revision of taxes of the county, to every taxable inhabitant within each ward, township, borough, or district, of the amount or sum for which he or she stands assessed, and of the time and place of the meeting of said board of revision.

SECTION 18. That after the assessments shall have been received from the several assessors of each county, the commissioners thereof shall annually give public notice in one or more newspapers published in each county, for at least two weeks, or if there be no newspaper published in the county, by handbills posted up in each ward, township, borough, or district, at the place of holding elections in the same, that the board of revision of taxes for the county will meet at the commissioners' office on the first Monday in August of that year, for the purpose of correcting and equalizing the assessment of taxes, where all persons interested may appear and show cause why their assessments should be reduced.

SECTION 19. That at the last term of the court of common pleas in each county, except Philadelphia, prior to the first day of August, in the year in which triennial assessments shall be made, the judges of the said court shall appoint three discreet and reputable citizens, inhabitants of such county, to serve for three years, who, together with the county commissioners, shall compose a board, to be called the "Board of Revision," a majority of whom shall be a quorum, and of which board the commissioner holding the oldest certificate of election shall be president, but in case he shall be absent the board shall elect a president pro tem.

SECTION 20. That the judges of the court of common pleas of the city and county of Philadelphia, shall appoint three persons, and the judges of the district court of the city and county of Philadelphia shall appoint three persons, all of whom shall be citizens and inhabitants of the city or county of Philadelphia, at the time designated in the preceding section, to serve for three years, who, together with the commissioners of the county, shall compose a board, to be called the "Board of Revision" for said county, a majority of which board shall be a quorum, and of which the commissioner holding the oldest certificate of election shall be president, but in case he shall be absent, the board shall elect a president pro tem.

SECTION 21. That the members of the board of revision, in each county, shall, before entering upon the discharge of their duties, severally take and subscribe an oath or affirmation, before some person authorized to administer oaths, in the following words:

I (A. B.) do (swear or affirm), that I will faithfully, and to the best of my knowledge and judgment, revise, correct, and equalize the assessment of the real estate in the county of \_\_\_\_\_ according to the actual cash value thereof, and at a price for which I believe the same will bona fide sell; and that I will rate all incomes derived from any trade, profession, or employment, at the sums actually

received; and that I will rate all salaries or emoluments of office according to the sums actually received by each individual; and that I will rate all other personal property at its actual value; and that I will faithfully and without partiality, perform all the duties enjoined upon me as a member of the board of revision for the county of \_\_\_\_\_ according to the laws of this Commonwealth. The above oath or affirmation shall be recorded in the office of the recorder of deeds of the proper county; and the county shall pay the usual fees therefor.

SECTION 22. That the board of revision in the city and county of Philadelphia shall not sit longer than sixty days in any one year; and in each of the other counties of the Commonwealth not sit longer than thirty days. Each board of revision shall have power to appoint a clerk, and to determine the amount of his compensation, which shall be paid by the county. The judges of the court in each county, whose duty it is made to appoint the members of the board of revision, shall determine the amount of compensation to be received by each, not exceeding three dollars per day, for each day absolutely occupied, which shall be paid by the county. The commissioners of each county shall provide the necessary printing which may be ordered by the board. All vacancies shall be filled by the court making the original appointment; and each board of revision shall keep a correct record of its proceedings, which shall be entered in a book, and filed in the commissioners' office of the proper county.

SECTION 23. That the board of revision in each county, after its organization, shall immediately proceed to equalize the valuation of each tract of land or town lot, with the improvements thereon, if any, so that each tract or lot of ground, with said improvements, in each ward, township, borough, or district of every county in the Commonwealth, shall be assessed at its actual cash value, and for this purpose each board of revision shall have power,

*First.* To subpoena witnesses, and examine them under oath or affirmation, in relation to the value of property; and to require the owners thereof to produce their title papers, and generally to exercise such powers as will enable them to ascertain the actual value of real estate and of all other property.

*Secondly.* They shall raise the valuation of any tract of land or town lot, with or without improvements thereon, to its actual value, if they believe it has been assessed below its actual value.

*Thirdly.* They shall reduce the valuation of any tract of land or town lot, with or without improvements thereon, to its actual value, if they believe it has been assessed above its actual value.

*Fourthly.* If any person who shall have refused or neglected to return a statement to the assessor shall present it in the form required by this act to the board of revision, it shall be received and the assessment corrected by deducting the twenty per cent. added by the assessor; but if such statement shall not be presented, they shall add fifty per cent. to the valuation of any kind of property as returned by the assessor.

SECTION 24. In no case shall there be an appeal from the decision of the board of revision to court, touching the valuation of any property, established by said board; and the county commissioners shall not make any abatement in the valuation of any property, and shall not authorize or permit the rate of taxation to be made out in the duplicate book for collectors, upon any other valuation than that established by the county board of revision, or by the Board of Revenue Commissioners, as the case may be.

SECTION 25. That the board of revision in each county shall, before their adjournment, certify to the commissioners thereof, the adjusted valuation of each kind of property in each ward, township, borough, or district, and the valuation of the real estate shall not be changed for three years, except as is hereinafter provided. The valuation of the personal property shall not be changed for one year.

SECTION 26. That the commissioners of each county shall, within sixty days after the adjournment of the board of revision, transmit to the Auditor General a certified copy of the assessor's book, so far as relates to real estate of each ward, township,



borough, and district; and at the same time, the said commissioners shall also furnish to the Auditor General a tabular statement, showing the aggregate valuation of all property assessed in each ward, township, borough, and district, distinguishing each kind, in the same manner assessments are made.

SECTION 27. That for the purpose of equalizing the valuation of the assessments, and providing for a uniform rate of taxation throughout the Commonwealth, the president and associate judges of the courts of common pleas of each judicial district shall appoint one person; and the persons so appointed from the several judicial districts, together with the Auditor General, shall constitute a board, to be called the "Board of Revenue Commissioners."

SECTION 28. That the members of the Board of Revenue Commissioners shall meet in Harrisburg on the second Tuesday in February, in the year one thousand eight hundred and fifty-four, and every third year thereafter, and shall, before proceeding to the discharge of their duties, take and subscribe the following oath or affirmation:

I (A. B.), do swear (or affirm) that I will faithfully, and to the best of my knowledge and judgment, revise, correct, and equalize the valuation of the real estate in the several counties of the Commonwealth, according to the actual cash value thereof, and at a price for which I believe the same will *bona fide* sell; and that I will faithfully perform all the duties enjoined upon me as a member of the Board of Revenue Commissioners, according to the laws of this Commonwealth.

SECTION 29. The Auditor General shall be president of the board, and shall be entitled to vote as other members. The board shall have power to appoint a clerk and assistant clerk, and determine the amount of their compensation. The members of the board shall each receive, as compensation for their services, the sum of three dollars per day, for a period not exceeding thirty days, and fifteen cents per mile for each mile necessarily traveled in going to Harrisburg and returning home.

SECTION 30. The Auditor General shall lay before the Board of Revenue Commissioners, the returns transmitted to him by the commissioners of the several counties, containing the adjusted valuation of each county, and he is hereby authorized to obtain such information as he may deem desirable, from the commissioners of any county, or from any other public officer or private citizen. Any neglect or refusal by any public officer to furnish such information, shall be deemed and taken to be a misdemeanor in office, and shall be punished as like offences are now punishable by law.

SECTION 31. The Board of Revenue Commissioners, when duly organized, shall proceed to ascertain the actual cash value of the real estate in each county of the Commonwealth, and for this purpose they shall have power,

*First.* To subpoena witnesses, and examine them under oath or affirmation, in relation to the value of property, and generally to exercise such powers as will enable them to ascertain whether the real estate in the several counties has been assessed at its actual cash value.

*Secondly.* They shall raise the aggregate valuation of the real estate in any county to its actual cash value, if they believe it has been assessed below its actual cash value.

*Thirdly.* They shall reduce the aggregate valuation of the real estate in any county, to its actual cash value, if they believe it has been assessed above its actual cash value.

*Fourthly.* They shall increase or decrease the valuation of every tract of land or town lot in the several counties to its actual cash value; and shall increase or decrease the aggregate valuation of the real estate in any ward, township, borough, or district, without increasing or decreasing the valuation in other parts of a county, if they believe the valuation has been made too high or too low, and shall designate in their general statement the owner or owners of such tract of land or town lot, and the ward, township, borough, or district, so increased or decreased in valuation.

*Fifthly.* They shall make, after having adjusted the valuation of the real estate in each county, a fair record of such valuation, and file a copy thereof, attested by

the signatures of said commissioners, in the office of the Auditor General, to be, and there to remain for three years, as the valuation of the real estate of the several counties of the Commonwealth, except the increased value of improvements which may be added by the county commissioners, the two years succeeding the triennial assessment.

SECTION 32. That on the receipt and the filing of the said record of the adjusted valuation of real estate, the Auditor General shall immediately transmit a copy thereof to the commissioners of each county, and said commissioners shall increase or decrease the valuation of every tract of land or town lot, as designated in the statement of the Revenue Commissioners, and they shall add to or subtract from the aggregate valuation of the county, ward, township, borough, or district, an amount equal to the increased or decreased valuation established by the Board of Revenue Commissioners; which addition or subtraction shall be ratably distributed among the real estate of the county, ward, township, borough or district, as directed by the adjusted valuation of the Board of Revenue Commissioners.

SECTION 33. That the commissioners of each county shall annually, at the time of fixing the county rates and levies, assess upon the adjusted valuation of the real estate, for the use of the Commonwealth, three mills upon every dollar of the value thereof; and upon all salaries or emoluments of office, three mills upon every dollar of the value thereof; and upon trades, professions, or employments, three mills upon every dollar of the value thereof; and upon all mortgages, moneys at interest, public loans, stocks, and bonds of every description, one-half mill upon every dollar of the par value thereof, on which one per cent. per annum interest shall accrue to the holder or holders thereof, and an additional half mill upon every dollar of the par value thereof, for every additional one per cent. per annum of interest which shall accrue to the holder or holders thereof.

SECTION 34. That every person whose income shall not exceed four hundred dollars per annum, shall be assessed at four hundred dollars, and shall pay a tax for the use of the Commonwealth, of one-half mill upon every dollar of the value thereof.

#### *Of the Collection of Taxes.*

SECTION 35. That on or before the first of May, in the year one thousand eight hundred and fifty-three, and annually thereafter, the commissioners of the several counties shall issue, with the duplicate of State and county taxes, to the respective collectors of county rates and levies, their warrants, authorizing and requiring them to demand and receive from every person named in said duplicate, the sum charged against such person for State and county purposes, and the warrant to every collector shall be authority to collect the sums charged in his duplicate during the period of one year, and every collector shall, within thirty days from the receipt of the duplicate, notify each person named therein, or his or her agent, the amount of taxes assessed.

SECTION 36. That if any person shall neglect or refuse to pay to the collector, within thirty days from the time of being notified of the amount of taxes due by him or her, such collector shall have power to levy the amount by distress and sale of the goods and chattels of such delinquent, giving ten days' notice of such sale, by written or printed advertisements, posted in at least twenty public places in the ward, township, borough, or district.

SECTION 37. That if a collector shall have reason to believe that any person intends to remove his or her goods and chattels from any premises, or to secrete them for the purpose of evading the payment of taxes, and shall make an oath or affirmation before any magistrate, he shall have authority to levy by distress, upon the goods and chattels of such person, as provided in the preceding section, notwithstanding payment shall not have been demanded thirty days previously.

SECTION 38. That the duplicate for State and county taxes shall be made in one book, and in all cases the taxes upon real estate shall be distinguished from taxes



upon personal property. The collector of county rates and levies shall collect the State taxes.

SECTION 39. That the commissions for collecting State and county taxes shall be as follows: five per cent. upon the first twenty thousand dollars collected, or any part thereof, and two per cent. upon all additional moneys collected. The commissions shall be distributed by the county treasurer in equal proportions to the amounts collected for State and for county purposes, which said commissions shall be allowed to the collectors respectively, by the treasurer of the proper county, on the final settlement of the duplicate.

SECTION 40. That every person who shall pay to the collector of taxes, the whole amount charged against him or her on the duplicate for State or county purposes, before the first of July, shall receive from the collector an abatement of five per cent. on the amount so paid; and on all moneys paid, whether for State or county purposes, during the month of July, an abatement of four per cent.; and on all moneys paid during the month of August, an abatement of three per cent.; and on all moneys paid during the month of September, an abatement of two per cent.; and on all moneys paid during the month of October, an abatement of one per cent.; and on all moneys paid during the month of January, the collector shall add one per cent. to the amount charged upon the duplicate; and on all moneys paid during the month of February, two per cent.; and on all moneys paid during the month of March, three per cent.; and on all moneys paid during the month of April, four per cent.

SECTION 41. That every person elected or appointed collector of taxes, shall give a bond for the faithful collection and paying over of State taxes, and another bond for the faithful collection and paying over of county taxes, each in a sum equal to the amount charged in the duplicate for State and county purposes respectively, with warrant of attorney to confess judgment, and with two sureties to each bond; but if any person elected or appointed tax collector shall offer to the commissioners of the county unincumbered real estate to the amount required as security, it shall be taken in lieu of the bond or bonds.

SECTION 42. That no person shall be eligible to the office of collector of taxes, who shall not have settled with the county treasurer, and paid over the whole amount of money received by him on any former duplicate.

SECTION 43. That it shall be lawful for any collector, with the consent of the treasurer and commissioners of the county, given in writing, to employ a suitable person to act for him in the execution of his warrant, such collector and his sureties being in all cases responsible for the acts of such deputy.

SECTION 44. That the collectors of taxes in the several counties shall pay into the treasury of the proper county, all moneys received for State or county purposes, whenever required to do so by the treasurer thereof.

SECTION 45. That the treasurer or commissioners of the several counties shall have authority to inspect or to require the production of the duplicate, books and accounts of the collectors, whenever he or they shall deem it necessary, and to examine on oath or affirmation any collector relative to the performance of his duties.

SECTION 46. That if any collector shall use the public money, or loan it to others, with or without compensation, or shall wilfully retain any part thereof after making payment to the county treasurer, the county commissioners on being notified of the fact by the county treasurer, shall immediately remove such collector from office, and appoint another person in his place.

SECTION 47. That if any collector shall not faithfully and diligently perform all the duties of his office, he shall be removed therefrom by the commissioners of the proper county, and another person shall be appointed in his place.

SECTION 48. That every collector who shall be removed from office, as provided in the forty-sixth section of this act, and for the causes therein mentioned, shall be deemed guilty of a misdemeanor, and the county commissioners shall prosecute him for said offence, in the court of quarter sessions of the proper county; and on conviction thereof, he shall be sentenced to the county jail for a period of not more than twelve months, or be fined in a sum of not more than five hundred dollars, or at the discretion of the court, be both fined and imprisoned.

**SECTION 49.** That the collectors of taxes in the several counties shall keep separate accounts of all moneys received on account of real estate and personal property, distinguishing the moneys received for the use of the State, and the moneys received for the use of the county; and in like manner the treasurers of the several counties shall keep separate accounts, and shall distinguish in their returns to the Auditor General and State Treasurer, the moneys received from real estate and from personal property, and from all other sources respectively; and in like manner the Auditor General and State Treasurer shall, in their annual reports to the General Assembly, distinguish the moneys received from real estate and from personal property.

**SECTION 50.** That the treasurer of Philadelphia county shall make daily returns to the commissioners thereof of the amount of moneys received by him for State and county purposes; also, of the amount of money paid out, and of the balance on hand, to the account of the State and county respectively, which statements shall be entered in a book to be provided for the purpose by the commissioners. The said book shall be open to the inspection of any citizen who may desire to examine it or copy it. The treasurer of every other county in the Commonwealth shall make monthly reports to the commissioners thereof, and shall in all other things conform to the requirements imposed by this section upon the treasurer and commissioners of Philadelphia county.

**SECTION 51.** That the treasurer of every county, and every recorder of deeds, probate, register of wills, and clerk of any court, shall furnish to the Auditor General, under oath or affirmation, a monthly statement of the amount of all moneys received for the use of the Commonwealth, which statement shall designate the amount received for taxes on real estate, and on personal property, and the amount received from each of the other sources for which separate accounts are now, or may be hereafter by law required to be kept. On the forwarding of said accounts, every county treasurer, recorder of deeds, probate, register of wills, and clerk of any court, shall immediately pay into the Treasury of the Commonwealth, as directed by the State Treasurer, any balance which may be due.

#### *Taxation of Bank Dividends and Capital Stock, including other Corporations.*

**SECTION 52.** That on the declaration of the dividend on the first Monday in May, and the first Monday in November in every year, the president, directors, and company of every bank in the Commonwealth, subject by law to a tax on its dividends, shall transmit to the State Treasurer for the use of the Commonwealth, as follows: on all dividends not exceeding six per cent. per annum, eight per cent.; on dividends exceeding six per cent., and not exceeding seven per cent. per annum, nine per cent.; on dividends exceeding seven per cent., and not exceeding eight per cent. per annum, ten per cent.; on dividends exceeding eight per cent., and not exceeding nine per cent. per annum, twelve per cent.; on dividends exceeding nine per cent., and not exceeding ten per cent. per annum, thirteen per cent.; on dividends exceeding ten per cent., and not exceeding eleven per cent. per annum, fifteen per cent.; on dividends exceeding eleven per cent., and not exceeding twelve per cent. per annum, seventeen per cent.; on dividends exceeding twelve per cent., and not exceeding fifteen per cent. per annum, twenty per cent.; on dividends exceeding fifteen per cent., and not exceeding twenty per cent. per annum, twenty-five per cent.; on dividends exceeding twenty per cent., and not exceeding twenty-five per cent. per annum, thirty per cent. The president or cashier of the said banks shall, immediately after the declaration of any dividend as aforesaid, forward to the State Treasurer a certificate under oath or affirmation, setting forth the whole amount of the dividend made or declared; and if the tax upon any dividend shall not be paid into the State Treasury within ten days after the declaration of such dividend, or if the certificate aforesaid shall not be forwarded to the State Treasurer within ten days, the bank so neglecting to pay or to forward the certificate, shall be liable to interest upon the amount due the Commonwealth, at the rate of twelve per cent. per annum, to be computed from the day the dividend was declared, until the same shall be paid, which principal sum with the interest, shall be recoverable in any court having jurisdiction.



SECTION 53. That if any bank by the provisions of its charter shall declare its dividends at any other time than the first Monday in May, and the first Monday in November, such bank shall be subject to all the provisions, conditions, and penalties provided in the preceding section.

SECTION 54. That every bank, institution or company whatever, established or incorporated by or in pursuance of any law of this Commonwealth, on whose capital stock paid in a dividend or profit of six per cent. per annum shall be made and declared, shall pay for the use of the Commonwealth a tax of three mills on every dollar of said capital stock, and an additional half mill upon the capital stock for every additional one per cent. per annum, dividend or profit made and declared by such bank, institution or company.

SECTION 55. That the treasurer or other officer of every county, city or district, and of every institution or company incorporated or established by any law of this Commonwealth, shall on the payment of any dividend or interest to any holder or agent claiming the same, or upon paying interest upon any script, bond or certificate of indebtedness issued by any county, city or district, or by any institution or company aforesaid, retain for the use of the Commonwealth one-half mill upon every dollar of the value thereof, on which one per cent. per annum interest shall accrue to the owner or agent thereof, and an additional half mill upon every dollar of the value for every additional one per cent. per annum interest which shall accrue to the holder thereof.

SECTION 56. That the tax required to be paid by the two preceding sections shall be deducted and retained, and paid into the State Treasury by the cashier, treasurer or other officer having charge of any bank, institution or company; and by the treasurer or other officer of every county, city, district, or borough in the same manner, and subject to all the provisions, conditions and penalties prescribed by the fifty-second section of this act in relation to the payment of taxes on bank dividends.

SECTION 57. That in all cases where any bank, institution, or company shall fail to make and declare any dividend or profit, or shall make and declare a dividend or profit of less than six per cent. per annum, the cashier or treasurer, and a majority of the directors or managers thereof, after being duly sworn or affirmed, to do and perform the same with fidelity, according to the best of their knowledge and judgment, shall, between the first and tenth days of November of the present year, and annually thereafter, estimate and appraise the capital stock of such bank, institution, or company, at its actual cash value, and when the same shall have been so estimated and appraised, they shall forthwith forward a certificate thereof to the Auditor General, accompanied by a copy of their said oath or affirmation, to be signed by them, and attested by the person who administered the same; and the said cashier or treasurer is hereby authorized and required, on or before the tenth day of January then next, to transmit to the Treasurer of the Commonwealth, out of the funds of said bank, institution, or company, a sum equal to three mills on every dollar of the value of the capital stock thereof, so estimated and appraised.

SECTION 58. That in case the funds of such bank, institution, or company, in the possession of or subject to the control of the cashier or treasurer at the period when the value of said capital stock shall be so estimated and appraised, shall be insufficient to satisfy and pay the tax aforesaid, it shall be the duty of said cashier or treasurer forthwith to give notice to the stockholders of such bank, institution, or company, of the amount required on each share of stock by them respectively held, to enable the said cashier or treasurer to pay the tax aforesaid; and if any such stockholder shall neglect or refuse, for the period of thirty days from the time of such notice, to pay the amount so required, the said cashier or treasurer shall, after giving two weeks' public notice thereof, in one or more newspapers published in the county, or if there be no newspaper published in the county, then in the newspaper published nearest to the county in which such bank, institution, or company, or its principal place of business is located, proceed to sell at public sale, and transfer to the purchaser so many shares of the stock of such delinquent stockholder as may be necessary to pay his portion of the tax required to be paid as aforesaid; and in case the stock so sold shall not produce sufficient money to pay the tax, then the property, either real or

personal, of such bank, institution, or company, shall be subject to levy for the payment thereof.

SECTION 59. That the surplus and contingent funds of any bank shall not, together, exceed twenty per cent. of the capital stock paid in, and in all cases the said surplus or contingent fund shall be subject to the same rate of taxation as is provided in the fifty-fourth section of this act, in relation to a tax on the capital stock of banking institutions, and the amount so taxed shall be collected and paid into the Treasury of the Commonwealth, as directed by the fifty-sixth section of this act, subject, however, to all the provisions, conditions, and penalties of the fifty-second section of this act.

*To Secure the payment of Taxes on Mortgages.*

SECTION 60. That it shall be the duty of the recorder of deeds in the several counties of the Commonwealth, on or before the first of April of the present year, and every year thereafter, to make out and deliver to the commissioners of the several counties, a correct list, certified under his official seal, of all the unsatisfied mortgages on record, or deposited for record, of less than twenty years in his office, previous to the commencement of the year then present, which list shall exhibit,

*First.* The name of the mortgagee and his residence, if known, and the name of the assignee, if any, of such mortgage, and his residence, if known.

*Secondly.* The name of the mortgagor and his residence, if known, and the name of his vendee, or other person claiming or occupying the mortgaged premises, if known.

*Thirdly.* The date of the mortgage.

*Fourthly.* The amount of which said mortgage was given, and the terms or conditions of payment.

*Fifthly.* The ward, township, borough, or district, in which the mortgaged premises are situated.

The recorder of deeds in the several counties shall receive the legal fees for making said statement, which fees shall be paid by the counties respectively.

SECTION 61. That upon the receipt of said statement, the commissioners of each county shall furnish the assessors thereof with a list containing the name or names of the owner or owners of any mortgage residing in the respective wards, townships, boroughs or districts, who shall assess the amount owing upon each mortgage at the rate provided in the thirty-third section of this act.

SECTION 62. That in case the mortgagee is not an inhabitant of this Commonwealth, and does not pay, or cause to be paid, the amount assessed, the collector shall collect the same from the mortgagor, or from the person in possession or occupancy of the mortgaged premises; and the amount of tax paid by the person in possession or occupancy of the premises, shall be a good set-off as so much paid on account of the rent of the premises, to the mortgagor or his vendee; and the amount of tax thus paid by the mortgagor, either directly, or through his tenant, shall be so much paid on account of his mortgage, of which payment the receipt of the collector shall be evidence.

SECTION 63. In all cases where the property mortgaged is untenanted, and the amount of tax cannot be collected from the mortgagor, and the mortgagee or owner shall satisfy the commissioners of the proper county, that the premises included in said mortgage are insufficient to satisfy the said mortgage, then the said county commissioners shall estimate and appraise the said mortgage at its actual cash value, according to the best of their knowledge and belief, and shall assess a tax of three mills on every dollar of such value, and cause the same to be collected from the mortgagee or owner, or from the mortgagor, as the case may be, by the proper collector.



*Duties of Mercantile Appraisers.*

SESSION 64. That every person, firm, or copartnership, engaged in the selling of wines and distilled liquors, goods, wares, merchandize, commodities or effects, of whatever kind or nature, the growth, product, or manufacture of the United States, or of any foreign country, except such as are sold by auctioneers and others duly licensed or commissioned not included in this act, shall be classified and assessed, and pay for the use of the Commonwealth, for their respective licenses, as follows :

Those whose annual sales amount to one million of dollars, and upwards, shall constitute the first class, and pay three hundred and fifty dollars.

Those whose annual sales amount to seven hundred thousand dollars and less than one million of dollars, shall constitute the second class, and pay three hundred dollars.

Those whose annual sales amount to five hundred thousand dollars, and less than seven hundred thousand dollars, shall constitute the third class, and pay two hundred and fifty dollars.

Those whose annual sales amount to three hundred thousand dollars, and less than five hundred thousand dollars, shall constitute the fourth class, and pay two hundred dollars.

Those whose annual sales amount to two hundred thousand dollars, and less than three hundred thousand dollars, shall constitute the fifth class, and pay one hundred and fifty dollars.

Those whose annual sales amount to one hundred thousand dollars, and less than two hundred thousand dollars, shall constitute the sixth class, and pay one hundred dollars.

Those whose annual sales amount to eighty-five thousand dollars, and less than one hundred thousand dollars, shall constitute the seventh class, and pay eighty dollars.

Those whose annual sales amount to seventy-five thousand dollars, and less than eighty-five thousand dollars, shall constitute the eighth class, and pay sixty dollars.

Those whose annual sales amount to sixty thousand dollars, and less than seventy-five thousand dollars, shall constitute the ninth class, and pay fifty dollars.

Those whose annual sales amount to fifty thousand dollars, and less than sixty thousand dollars, shall constitute the tenth class, and pay forty dollars.

Those whose annual sales amount to forty thousand dollars, and less than fifty thousand dollars, shall constitute the eleventh class, and pay thirty dollars.

Those whose annual sales amount to thirty thousand dollars, and less than forty thousand dollars, shall constitute the twelfth class, and pay twenty-five dollars.

Those whose annual sales amount to twenty thousand dollars, and less than thirty thousand dollars, shall constitute the thirteenth class, and pay twenty dollars.

Those whose annual sales amount to fifteen thousand dollars, and less than twenty thousand dollars, shall constitute the fourteenth class, and pay fifteen dollars.

Those whose annual sales amount to ten thousand dollars, and less than fifteen thousand dollars, shall constitute the fifteenth class, and pay twelve dollars and fifty cents.

Those whose annual sales amount to six thousand dollars, and less than ten thousand dollars, shall constitute the sixteenth class, and pay ten dollars.

Those whose annual sales amount to three thousand dollars, and less than six thousand dollars, shall constitute the seventeenth class, and pay seven dollars.

Those whose annual sales amount to one thousand dollars, and less than three thousand dollars, shall constitute the eighteenth class, and pay five dollars.

SECTION 65. That every seller or vender of wines or distilled liquors, with or without other goods, wares, merchandize, commodities, or effects, shall pay for a license fifty per cent. in addition to the rates above specified for the respective classes; and every license granted shall specify whether the party obtaining the same is entitled to sell or vend wines or distilled liquors.

SECTION 66. That no person, firm, or copartnership, whose annual sales do not exceed one thousand dollars, and no feme sole trader, or single woman, whose annual sales do not exceed two thousand five hundred dollars, shall be required to take out a license.

SECTION 67. Every mechanic who shall keep a store at his shop, for the purpose of vending the goods or wares manufactured by him, shall not be required to take out a license.

SECTION 68. The judges of the court of common pleas in every county of the Commonwealth shall annually, in the month of December, appoint three suitable persons, inhabitants of each county, who shall be styled the "Appraisers of Mercantile Taxes," whose duty shall be—

*First.* To ascertain the name and place of business of every person selling goods, wares, merchandize, commodities, or effects, as provided in the sixty-fourth section of this act.

*Secondly.* To ascertain the amount of the annual sales made by each person, firm, or co-partnership; and for this purpose they shall have power to subpoena witnesses, and examine them, under oath or affirmation, in relation to the value of such annual sales, and generally to exercise such powers as will enable them to classify each person, firm, or co-partnership, according to the amount of sales made by each.

*Thirdly.* To appraise the amount of said sales at their full value, and determine the class to which every person, firm, or co-partnership belongs.

SECTION 69. That the appraisers of mercantile taxes in the several counties shall, before entering upon the discharge of their duties, take and subscribe the following oath or affirmation, which shall be administered by the treasurer of the proper county, and filed in his office:

I (A. B.) do (swear or affirm) that I will faithfully, and to the best of my knowledge and judgment, rate the annual sales of every person, firm, or co-partnership at their full value; and I will properly classify each according to the amount of such sales, as required by this act; and that I will perform all the duties of appraiser of mercantile taxes with honesty and fidelity, according to law.

SECTION 70. That the appraisers in the several counties shall, on or before the first of May, annually, prepare a list of all the dealers, classified as aforesaid, and the appraisers of Philadelphia county shall furnish to each person, firm, or co-partnership, so classified and assessed, a written or printed notice of the same, giving notice to each at the same time of the place and time at which appeals may be made from such classification and assessment; in case any person, firm, or co-partnership interested in receiving such notice cannot be found, it shall be left at the usual place of doing business of such person, firm, or co-partnership; and in like manner the appraisers of Allegheny county shall furnish a written or printed notice to every person, firm, or co-partnership in the cities of Pittsburg and Allegheny; and in the remainder of Allegheny county, and in the remaining counties of the Commonwealth, the appraisers thereof shall give public notice of the classification and assessment of each person, firm, or co-partnership, and the time and place of meeting to hear appeals, by advertisements in one or more newspapers published in each county, for at least two weeks prior to the day fixed for hearing appeals.

SECTION 71. That the appraisers in the several counties shall meet together on the last Monday in May, annually, for the purpose of hearing appeals, and shall not sit longer than ten days in any one year.

SECTION 72. That on the hearing of an appeal, every person, firm, or co-partnership, aggrieved at the classification and assessment made, may show cause why it should be reduced, but the testimony shall, in all cases, be made under oath or affirmation. After hearing the cases, the board of appraisers shall reduce or increase such classification and assessment if satisfied they are too high or too low, as the case may be.

SECTION 73. That any person, firm, or co-partnership, dissatisfied with the decision of the appraisers, shall have the right of appeal to the court of common pleas of the proper county, if notice be given in writing to the appraisers, within one day (Sunday



excepted) after such decision shall have been made. In all cases the decision of the court of common pleas shall be final and conclusive.

SECTION 74. That after the appraisers in the several counties shall have heard the appeals, the appraisers of the city and county of Philadelphia shall furnish a certified list of the dealers transacting business in the county of Philadelphia, to the treasurer thereof, and also a certified list of the dealers transacting business in the city of Philadelphia to the treasurer thereof, with the classification and assessment as made and determined by them; and the appraisers of the counties of Lancaster and Allegheny shall furnish a certified list of the dealers transacting business in the city of Lancaster, and in the city of Pittsburg, respectively, to the treasurer thereof; and also a certified list of the dealers transacting business in the remaining part of each county to the treasurer thereof, with the classification and assessment as made and determined by them; and in the remaining counties of the Commonwealth, the appraisers of each county shall furnish a certified list of the dealers transacting business in said county, to the treasurer thereof, with the classification and assessment as made and determined by them; and every person, firm, or co-partnership, shall pay for the use of the Commonwealth, the amount assessed according to the classification.

SECTION 75. That upon the receipt of the said certified list, every county treasurer and city treasurer mentioned in the preceding section, shall immediately transmit to the Auditor General a certified copy of such list, and shall, at the time of issuing every license, receive and collect the amount to be paid, according to the classification and assessment.

SECTION 76. That in case of appeal from the appraisers to the court of common pleas, the license granted the preceding year shall be sufficient authority for every person, firm, or co-partnership, to continue selling until said appeal shall be decided by the court, and when decided, the appraisers shall certify the same to the county or city treasurer, as the case may be, who shall transmit a copy thereof to the Auditor General. Every license granted for the present year is hereby extended to the first of July next; and every person, firm, or co-partnership, holding such license, shall pay to the proper county or city treasurer a sum equal to two-twelfths of the amount paid originally for the license, which sum shall be paid at the time of taking out a new license, or collected as now provided by law.

SECTION 77. That the annual licenses shall be dated on the first of July, and payment made for them from that time. In case any person, firm, or co-partnership, shall commence business after the regular yearly period, at which licenses are taken out, such person, firm, or co-partnership shall, on application to the appraisers, be classified and assessed by them, and receive the notice of such classification and assessment, and upon its presentation to the proper county or city treasurer, he shall issue a license for the remainder of the year, and the person, firm, or co-partnership receiving such license shall pay for the same in proportion to the time for which said licenses shall have been granted.

SECTION 78. That any person, firm, or co-partnership, commencing business for a fractional part of a year, and shall not, within one month apply for and take out a license, shall pay the full amount for a license.

SECTION 79. That any person, firm, or co-partnership, selling any goods, wares, merchandize, commodities, or effects whatsoever, without first having obtained a license, as required by this act, shall forfeit a sum of not less than fifty, nor more than five hundred dollars, at the discretion of the court. It shall be the duty of the appraisers of the several counties to prosecute, in the name of the county, every person, firm, or co-partnership, violating the provisions of this section, one-half of the money recovered shall be for the use of the appraisers prosecuting, and the other half for the use of the county.

SECTION 80. That if any person, firm, or co-partnership, shall have more than one store, every such person, firm, or co-partnership, shall take out a license for each store.

SECTION 81. That the treasurer of every county, and the treasurer of the cities of Philadelphia, Lancaster, and Pittsburg, shall, annually in the month of July,



publish in two newspapers, if there are two published in the county, a list of the name, classification, and assessment of every person, firm, or co-partnership, to whom a license has been granted; and the treasurers aforesaid shall transmit two copies of said publication to the Auditor General.

SECTION 82. That every county and city treasurer shall, at the time of issuing a license to any person, firm, or co-partnership, demand and receive in addition to the amount to be paid for the license, fifty cents as the fee of the appraisers, and twenty-five cents as the fee of the treasurer issuing said license. Each appraiser in the several counties shall receive mileage at the rate of three cents per mile for every mile necessarily traveled in the discharge of his official duties, an account of which mileage shall be made out, and its correctness verified by oath or affirmation of the appraiser, and on being approved by the treasurer of the proper county, shall be paid by him out of any money belonging to the State; and said account shall be a sufficient voucher in the settlement of the account of the treasurer with the Commonwealth.

#### *Of Taxation on Brokers.*

SECTION 83. That the appraisers of mercantile taxes in the several counties shall, at the time and in the manner of classifying and assessing mercantile taxes, classify and assess stock brokers, bill brokers, exchange brokers, merchandize brokers, and real estate brokers, according to the amount of business done by each, and for this purpose the appraisers aforesaid shall have all the powers conferred by this act in relation to mercantile taxes.

SECTION 84. That all the provisions of this act in relation to mercantile taxes, except as herein changed, shall be applicable to the classification and assessment of taxes on brokers.

SECTION 85. That any person, firm, or co-partnership, transacting the business of a broker without first obtaining a license, shall forfeit a sum of not less than fifty nor more than one thousand dollars.

SECTION 86. That every person transacting the business of a broker as aforesaid, shall pay for the use of the Commonwealth three per cent. per annum upon every dollar of their receipts from whatever source derived.

#### *Of Taxation on Non-Residents.*

SECTION 87. That all debts owing by inhabitants of this Commonwealth to persons not residing within the same, for the purchase of any real estate, shall be deemed personal property within the ward, township, borough, or district where the debtor shall reside, and as such shall be liable to taxation in the same manner and to the same extent as moneys at interest, as provided by this act.

SECTION 88. That if there shall reside in any county of this Commonwealth an agent of any non-resident creditor having debts owing to him of the description mentioned in the preceding section, such agent shall, on or before the first day of April in every year, furnish to the commissioners of the respective counties in which said debtor may reside, a true and accurate description of the property sold and the amount of debts of the kind mentioned in the preceding section, which were owing on the first day of January preceding, to the principal of such agent, in each ward, township, borough, or district, verified by the oath or affirmation taken before some person authorized to administer oaths.

SECTION 89. That any agent who shall refuse or neglect to furnish such list, shall forfeit and pay the sum of five hundred dollars for the use of the county where any such debtor of his principal shall reside, to be sued for by the commissioners in the name of the county, and to be recovered upon proof that the principal of such agent had a debt or debts owing to him by an inhabitant or by inhabitants of such county of the description mentioned in the eighty-seventh section of this act, and that the existence of such debt or debts was known to such agent.



SECTION 90. That the commissioners of every county shall, on receiving such statement, immediately make out and transmit to the assessors of the several wards, townships, boroughs, and districts in which any such debtor or debtors shall reside, an abstract of such statement, which shall contain the name or names of such debtor or debtors, and the amount due by him or them.

SECTION 91. That the assessors of the several counties, on receiving such abstract or statement, shall at the time of making the assessments enter the name of each debtor in the assessment book, and the aggregate amount due by him to any non-resident on the first day of January preceding, in the same manner as other property is entered.

SECTION 92. That there shall be levied and assessed upon all such debts the same amount of taxes as are levied upon moneys at interest by the thirty-third section of this act.

SECTION 93. That the debtor to any non-resident creditor shall pay to the collector of taxes the amount levied upon such debt or debts, and the receipt of the collector shall be evidence of the payment of such tax, which shall be a good set-off as so much paid upon the debt, or if the debtor shall be in possession of the property held as a tenant, it shall be a good set-off on account of rent.

SECTION 94. That in case any collector shall be unable to collect the taxes as aforesaid, he or they shall return the lands so held by non-residents or their agents, to the commissioners or treasurer of the county in which they shall be situated, and the said lands shall be sold as unseated lands are required to be sold by this act, in satisfaction of the taxes due by the said non residents.

#### *Miscellaneous Provisions.*

SECTION 95. That the State Treasurer shall deduct from the interest paid upon the public loans or stocks of the Commonwealth, not exempted from taxation, and from the interest upon all loans and stocks issued by any corporation and guaranteed by the Commonwealth, one half mill upon every dollar of the par value of said loans or stocks on which one per cent. per annum interest is paid by the Commonwealth, and an additional half mill upon every dollar of the par value thereof, for every additional one per cent. per annum of interest which shall be paid by the Commonwealth.

SECTION 96. That taxes levied and assessed for county purposes upon moneys at interest and upon all other personal property, shall not exceed the rate established by this act for State taxation.

SECTION 97. That the Governor shall annually appoint one or more persons in each county in which he shall deem it expedient, whose duty it shall be, under the directions of the State Treasurer, to examine the books, accounts and papers of the county, city, incorporated district, or other municipal incorporation; and also of any bank, institution or company incorporated or established by any law of this Commonwealth, in relation to the correctness of the returns of the tax on dividends, the tax on capital, tax on the stock, and the interest paid on bonds or other evidences of indebtedness.

SECTION 98. That persons so appointed by the Governor shall have power to examine on oath or affirmation any officer connected with either of the corporations enumerated in the preceding section, or any other person whatever in relation to the correctness of the returns specified in that section.

SECTION 99. That the compensation to persons so appointed shall be determined by the Governor, Auditor General, and State Treasurer, and shall be allowed in the settlement of their accounts.

SECTION 100. That the goods and chattels of any person occupying real estate shall be liable to distress and sale for the non-payment of any taxes assessed upon such real estate, during his possession or occupancy and remaining unpaid, in like manner as if they were the goods and chattels of the owner of such real estate.

SECTION 101. That every tenant whose goods and chattels shall be seized and sold for the non-payment of taxes on real estate, or who shall pay the taxes after his goods

and chattels shall be seized, shall have a good set-off as so much paid on account of rent for the premises, and the receipt of the collector shall be evidence of such payment.

SECTION 102. That the collectors of taxes in the several counties, upon the settlement of the duplicate each year with the treasurer, shall make an oath or affirmation, which shall be administered by the county treasurer, that they have made a just and true return of all moneys collected.

SECTION 103. That every collector shall mark on the duplicate with ink, opposite each person's name, the word "paid," whenever the amount of tax shall be received by him, and the auditors of every county shall audit and settle the duplicate of taxes with the county treasurer.

SECTION 104. That where any person, on oath or affirmation, under any provision of this act, shall intentionally express or convey any false meaning, he or she shall be deemed guilty of perjury, and on conviction thereof in any court having jurisdiction, shall be punished as now provided by law.

SECTION 105. That the assessors in the several counties of the Commonwealth shall, in making assessments, enter in an appropriate column, opposite the name of any person who shall refuse or neglect to return the circular under oath or affirmation, filled up as required by this act, the word "refused;" and in like manner if any person shall not return said circular under oath or affirmation, and filled up as required by this act, in consequence of absence or sickness, the word "absent" or "sick" shall be inserted in an appropriate column.

SECTION 106. That every bank, institution, or company whatsoever, established or incorporated by any law of this commonwealth, shall pay to the treasurer of the county in which such bank, institution, or company shall be located, a tax on their dividends, and a tax on their capital stock paid in, and a tax on all bonds and other evidences of indebtedness, for the use of the county, not exceeding the amount required to be paid by the provisions of this act for State purposes; and in like manner every county, city, district, and borough shall pay to the treasurer of the county in which they shall be established, a tax on every bond or other evidence of indebtedness issued, or which shall be issued by said corporations, for the use of the county, not exceeding the amount required to be paid by the provisions of this act for State purposes.

SECTION 107. That the taxes required to be paid by the preceding section shall be deducted and retained, and paid to the treasurer of each county, by the cashier, treasurer, or other officer having charge of any bank, institution, or company established or incorporated as aforesaid, and by the treasurer or other officer of every county, city, or district in the same manner, and subject to all the provisions, conditions, and penalties prescribed by the fifty-second section of this act, in relation to the payment of taxes on bank dividends; in all proceedings in court for the recovery of any of said taxes, the treasurer of each county shall prosecute the same.

SECTION 108. That the commissioners of each county shall, on or before the first of April, annually, notify every bank, institution, or company aforesaid, and every municipal corporation within the same, of the amount of taxes levied and assessed upon each for county purposes.

SECTION 109. That the commissioners of the several counties shall, the two years succeeding the triennial assessment, transmit to the Auditor General, on or before the first of September, a tabular statement showing the increased value of real estate in consequence of the erection of improvements thereon, in each ward, township, borough, or district; and also the aggregate valuation of the personal property in the form prescribed in the assessor's book.

SECTION 110. That in all cases where buildings are destroyed by fire, the commissioners of the several counties shall require the assessor of the proper ward, township, borough, or district to value the same, and to deduct the amount from the assessed value of the property; and the commissioners are hereby authorized to issue a certificate to the person or persons owning said building, showing the amount of abatement to be made, which shall be received by the collector as so much paid on account of taxes.



SECTION 111. That if any person appointed or elected assessor or tax collector shall refuse to serve, he or they shall forfeit and pay to the county the sum of fifty dollars, to be recovered as debts of like amount are recoverable, at the suit of the commissioners of the county; but no person who shall have served as a collector or assessor, shall be appointed for a second term without his consent, for the term of ten years. In all cases of vacancy, the commissioners of the several counties shall appoint a suitable person, collector or assessor, who shall be a citizen and resident of the ward or township; and in case a collector shall be appointed, he shall give security as required by this act.

SECTION 112. That in the two years succeeding the triennial assessment, the principal assessor shall value and assess the improvements upon real estate, and value and assess all personal property, except in the city and county of Philadelphia.

SECTION 113. That if any assessor, who shall have taken upon himself the duties of his office, shall neglect or refuse to comply with any legal order or warrant issued to him by the commissioners of the county, or shall wilfully neglect to perform the duties enjoined upon him by law, he shall forfeit and pay to the county one hundred dollars for every offence, to be recovered as debts of like amount are recoverable, at the suit of the county.

SECTION 114. That no person shall be required to return to the assessor any moneys invested in public loans, stocks, bonds, or other evidences of indebtedness issued by the Commonwealth, or issued by any bank, institution, or company incorporated by any law of this Commonwealth, or issued by any county, city or district.

SECTION 115. That wherever the word "assessor" or "assessors" is used in this act, it shall be construed to mean assessor and assistant assessors, as the case may be.

SECTION 116. That if any assessor shall willfully refuse or neglect to value, assess and return any person, property, or thing made taxable by law, he shall be guilty of a misdemeanor in office, and on conviction thereof, be subject to imprisonment for not less than three, nor more than twelve months, and fined in a sum not less than one hundred, nor more than two hundred dollars.

SECTION 117. That every assessor in the Commonwealth shall, annually, at the time of making the assessment, return to the commissioners of each county a separate list of all property exempted from taxation.

SECTION 118. That the taxes on sales by first class auctioneers, shall hereafter be as follows: On all articles, the growth, product, and manufacture of the United States, or any foreign country, except wines and liquors, one-half of one per cent. on every hundred dollars; on all wines and liquors, foreign and domestic, one per cent. on every hundred dollars; on all groceries, one-half of one per cent. on every hundred dollars; on drugs, glassware and earthenware, wood and mahogany, three-quarters of one per cent. on every hundred dollars; and the rate of taxation on similar articles sold by auctioneers of any other class shall be the same as are provided for in this section.

SECTION 119. That every person of full age and sound mind, shall return to the assessor of the proper ward, township, or borough, all personal property, of which he or she is the owner, as required by this act, and said return shall include ground rents, ferry, fishery, and wharf property; and he or she shall also return to the assessor aforesaid, all moneys invested, loaned, or otherwise controlled by him or her, as agent or attorney, or on account of any other person or persons, company or corporation, whatsoever. The personal property of every ward shall be returned by his guardian; of every minor, child, idiot, or lunatic, having no other guardian, by his father, if living; if not, by his mother, if living; and if neither father nor mother be living, by the person having such property in charge; of every wife, if of sound mind, who shall have a separate estate by herself; of every person for whose benefit property is held in trust by the trustee; all personal property, late of a deceased person, by the executor or administrator, until the final settlement of the account of such executor or administrator. But all property held in a representative capacity, shall be separately returned from property held by such representative in his or her own right.

SECTION 120. That all taxes on real estate, which shall remain unpaid on the first day of May next, after the year for which such taxes shall have been assessed and payable, shall be returned to the county commissioners on that day, and the real estate on which such taxes shall have been assessed, shall be sold in the manner, with the notice and effect, and subject to the redemption as provided by law for the sale of unseated lands by the treasurer of the county, on the second Monday in June, in every year, and at such other times as such sales may be adjourned unto, except in the city and county of Philadelphia, wherein it shall be the duty of the treasurer of the county to proceed forthwith, after said first Monday in May in each and every year, to collect such taxes by a sale of the real estate on which such taxes shall have been assessed, in the manner provided by law for the collection of registered taxes in said city and county.

SECTION 121. That if the amount of money received from taxes on real and personal property shall, on the first day of December, in the year one thousand eight hundred and fifty-five, as shown by the report of the Auditor General, exceed one million eight hundred thousand dollars for the fiscal year ending on the 30th day of November, one thousand eight hundred and fifty-five, then and in that case there shall be thereafter a reduction of one mill on all kinds of real and personal property assessed for State purposes.

SECTION 122. That all laws hereby supplied or altered, shall be repealed, but if not supplied or altered, shall be and remain in full force and construed in connection with the law hereby enacted.

### AN ACT RELATING TO THE SALE, &c., OF REAL ESTATE.

WHEREAS, The general welfare requires that real estate should be freely alienable and be made productive to the living owners thereof:

*And Whereas,* In matters which the judiciary is competent to hear and decide, it is expedient that the courts should adjudicate them, after a full hearing of all parties, rather than that they should be determined by special legislative acts upon an *ex parte* hearing:

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same,* That in all cases where real estate shall have been acquired by descent or last will, the orphans' court, and in all other cases the courts of common pleas of the respective counties of this Commonwealth, shall have jurisdiction to decree the sale, mortgaging, leasing, or conveyance upon ground rent of such real estate, in the cases hereinafter described: *Provided,* That any such court in the county where the premises shall be situated shall be of opinion that it is for the interest and advantage of those interested therein that the same should be sold, mortgaged, leased, or let on ground rent, and may be done without injury or prejudice to any trust, charity, or purpose for which the same shall be held: *And provided,* That the same may be done without the violation of any law, which may confer an immunity or exemption from sale or alienation.

SECTION 2. That such sale, mortgaging, leasing, or conveyance upon ground rent, may be decreed whenever real estate shall be held for or owned by minors, lunatics, or habitual drunkards, so duly found by inquisition, for the sole and separate use of married women, for religious, beneficial, or charitable societies or associations, incorporated or unincorporated, or for or by any other corporation, or by trustees for any public or private use or trust; and although there may exist a power of sale, but the time may not have arrived for its exercise, or any preliminary act may not have been done to bring it into exercise, or the time limited for its exercise may have expired, or any one or more persons required to consent or to join in its execution, may have become *non compos mentis*, or have removed out of the State, or died, or should refuse to act, or unreasonably withhold consent; also when there has been or



shall be a defective appointment in any deed or last will and testament, and the necessary power is not given to the executor, devisee, or appointee to make sale and conveyance of real estate; also whenever the owner of real estate may have been absent and unheard from for seven years, under those circumstances from which the law would presume his or her death; whenever a husband shall own real estate, having a wife who is a lunatic or a minor; whenever a married woman owns real estate, and her husband has abandoned her for two years, or been absent and unheard from for seven years; whenever a decedent shall have contracted by parol to sell real estate, and those interested do not think it expedient to plead the statute requiring contracts to be in writing, to enable the purchaser to recover the real estate agreed to be sold; whenever a decedent's real estate is subject to the lien of debts not of record; whenever real estate shall be entailed or contingent remainders or executory devises shall be limited therein; or whenever, in proceedings in partition in equity, it shall appear that real estate cannot be divided without prejudice to the interests of the owners; and also whenever real estate shall have been purchased, or any ground rent been reserved and be held by any person acting in a trust or fiduciary capacity; and such decree may be made, whether such ownership or interest shall be held or enjoyed in severalty, joint tenancy, coparcenary, or in common with others, and generally in all cases where estates have been or shall be devised or granted in trust, or for special or limited purposes, or where any party interested therein is under a legal disability to sell and convey the same: *Provided*, That nothing in this act contained shall be taken to repeal or impair the authority of any act of Assembly, general or private, authorizing the sale of real estate by decree of court or otherwise, nor to affect or impair any right or powers otherwise existing in any persons or corporations, to sell, mortgage, lease, or let on ground rent any real estate. And every power to sell, in fee simple, real estate, created by deed or will, shall be taken to confer an authority to sell and convey, reserving a ground rent or rents in fee, and the same to release and extinguish according to law and the stipulation of the deed, and also to grant and convey such ground rent or rents to any purchaser or purchasers thereof, free of all trusts.

**SECTION 3.** That such sale, mortgaging, leasing, or conveyance upon ground rents, may be decreed on the petition of any trustee, guardian, committee, or person interested, clearly setting forth the facts, needful for the information of the court, under oath or affirmation; and if all proper parties shall not have voluntarily appeared, as petitioners or respondents, the court shall fix a day for parties to appear and cause a citation to be served on all persons in being, who shall not have appeared and who shall have any present or expectant interest in the premises, warning them to appear, and that they shall be heard on the day designed; and for those who cannot otherwise be served, cause advertisement to be made in manner most likely to afford notice, and service made in any part of the United States and the territories thereof, with oath or affirmation of the fact taken before any judge or justice of the peace and filed of record, shall be good service; and guardians shall be served and appear for their wards; and if minors shall have no guardian the court shall appoint a guardian for them; committees shall be served and appear for lunatics and habitual drunkards; and husbands shall be served and appear with their wives, except husbands who shall have abandoned their wives for two years, or been absent and unheard from for seven years; and if parties make default in appearing, the court, after investigation of the facts, may proceed to make a decree in the premises: *Provided*, That in case of the appointment of a guardian by the court, and the payment over of money to him, or of the payment of money to any former guardian, the court shall take adequate security for the faithful application of such money; and before the payment of any money to any guardian, not within the court's jurisdiction, the court shall be duly notified that adequate security has been given to the court, having jurisdiction over him, whether within or without this Commonwealth.

**SECTION 4.** That such sales, mortgages, leasing, and letting on ground rent, shall only take place after full and careful investigation by the court, aided, when deemed necessary, by the report of a competent person to be appointed by the court, and

shall be made by trustees, executors, administrators, guardians, committees, or owners, having a present vested interest as the court may order, and be under the direction and subject to the approval of the court, before which the deed shall be acknowledged, and be certified under seal to have been acknowledged; and all absolute sales in fee simple (except as hereinafter provided), shall be by public sale or vendue, and may be either entirely for cash, or partly on credit and partly for cash, after full advertisement, for at least twenty days, by hand-bills posted in at least twenty of the most public places in the city or county, where the premises shall be situated, and in at least two newspapers, not less than three times in each; *Provided*, That if the court shall be of opinion, that under the circumstances a better price can be obtained at private than at public sale as where the interest be undivided, or for other sufficient cause, the court may approve and decree a private sale; and such mortgaging, leasing, and letting on ground rent, shall be upon terms and at rates to be approved by the court, and the specific execution of the contracts of decedents upon the terms and at the price proved or admitted to have been agreed upon by the parties; but no such private sale, leasing or letting on ground rent, shall be upon terms or at rates less favorable than others, who, of competent ability to contract and uniting in the sale of undivided interests shall accept; and it shall be the duty of the court, in decreeing sales, leases and conveyances, upon ground rent of real estate, to order the premises, if necessary, to be so subdivided as to command the highest price or greatest rents, and for such purpose, where the premises may admit of or require it, shall have power to lay out roads, streets, and alleys, and to vacate such as shall not have been paid for or received into actual use by the public, if found to be inconvenient, and to make an unprofitable division of the property.

SECTION 5. The title of purchasers under all such sales, mortgages, or conveyances upon ground rent shall be a fee simple title, indefeasible by any party, or persons having a present or expectant interest in the premises, and be unprejudiced by any error in the proceedings of the court; and by every such public sale, the premises sold shall be discharged from all liens; and every such sale and every conveyance in fee simple upon ground rent, shall have all the effect of any other proceeding or conveyance now authorized by law and strictly conducted to a final conclusion, to bar any estate tail and to defeat contingent remainders; and in such case shall vest in the tenant in tail or particular tenant, whether minor, feme covert, or otherwise, who, after such proceeding or conveyance, might have become entitled to the absolute fee simple title, the absolute right to the purchase money and the ground rents reserved; and such sales and conveyances on ground rent shall also bar any right of the Commonwealth to forfeit real estate that may have been held by, or for any corporation beyond what has been authorized, if no proceeding to procure a forfeiture shall have been commenced before petition filed for a sale or letting on ground rent: *Provided*, That the petition shall set forth an explanation of the title and of the purpose to bar the entail, defeat the contingent remainder, or the right of the Commonwealth to have inquisition for any estate defeasible as aforesaid: *And provided*, That the purchase money, or rent reserved shall be a lien on the premises sold or let until fully paid according to the decree of the court.

SECTION 6. The purchase money or mortgage money, ground, or other rent reserved, shall in all respects be substituted for the real estate sold, mortgaged, or let, as regards the enjoyment and ownership thereof after the payment of liens, and shall be held for or applied to the use and benefit of the same persons, and for the same estate and interest, present or future, vested, contingent, or executory—as the real estate sold, mortgaged, or let, had been held, except only such remainders after an entailment or contingent remainders as shall have been barred or defeated as aforesaid; and those entitled to a present interest in such real estate, shall receive the interest of the proceeds or rents thereof, unless expressly directed to accumulate: *Provided*, That no principal moneys raised by sale or mortgage as aforesaid, shall be expended for any other purpose than for the payment of liens upon, or the improvement of the same real estate when mortgaged, or other real estate when held for the same uses and persons, unless the same be required for the maintenance



or education of parties having the like interests vested or expectant, and can be equally and equitably so applied, and without diminution of the capital that may of right become the property of parties having unbarred interests or title in remainder, or by executory devise: and it shall be the duty of the court to decree the proper application of all purchase or mortgage moneys and rents, with the aid of an auditor, when deemed necessary to the discharge of liens, and to the parties interested as and when they may be entitled; and before any decree shall be executed, the person or persons entrusted to execute the same shall give adequate security to the Commonwealth, to be approved by the court, conditioned for the faithful execution of the trust and proper application of all moneys to be received, according to the trust and decree of the court, which security shall enure to the benefit of all parties interested; and such security being so given, no purchaser or lessee shall be bound to see to the application of the purchase money or rents, or be in any manner liable to, or affected by the former trusts or limitations upon the premises.

SECTION 7. That it shall be lawful for trustees, guardians, committees, married women, and corporations, in all the cases aforesaid, under the decree of the court as aforesaid, and with the like effect and indemnity to them in acting thereunder, to make and take conveyances by deed acknowledged in court, without public sale, in order to square and adjust lines between adjoining owners, to make and take conveyances, to perfect the partition of real estate held in joint tenancy, coparcenary, or in common with others, to purchase other real estate when needful to that already owned by any such party, or useful to the business thereupon carried on, or when necessary to protect any security or rent held on property exposed to judicial sale: *Provided*, That no corporation shall be so authorized to purchase beyond its charter license: *And provided*, That no purchase or sale by authority of this act shall change the course of descent or transmission of any property changed in its nature by virtue thereof, as respects persons who are not of competent ability to dispose of it; and all persons entrusted with moneys raised under this act shall be authorized to file their accounts in the court whence their authority was derived; and upon such notice as the court may order to parties interested, or after being audited, if deemed necessary, or by consent of all parties interested, such accounts may be finally confirmed, and upon payment of the balance, as may be decreed by the court, such accountants may be fully discharged from the trust.

SECTION 8. That whenever any property hath heretofore been or shall hereafter be bequeathed, devised, or given to any religious or charitable use or purpose, and the occasion has ceased or shall cease, so that it can no longer be applied to such use or purpose, or the same be originally impracticable, in the manner, place, or way, or to the extent intended, it shall be lawful for any society, association, community, corporation, or trustees entrusted with the management of such property, or entitled to its benefits, to apply by petition to the orphans' court or court of common pleas, according to their jurisdiction, as defined in the first section of this act, in the county where such property shall be chiefly situated or administered, praying leave to apply the same or its income to such designated uses and purposes, in such manner, place, way, and to such extent as under existing circumstances shall, as nearly as practicable, conform to the original intent, and be for the benefit of such persons, society, association, community, or corporation, originally intended to be benefitted and no other; and if upon such full notice as shall be satisfactory to the court, and the hearing of any parties interested who may appear, it shall appear to the court that the prayer of the petition may be usefully granted, so as to prevent a failure of such use or trust, either generally or partially, the decree of the court in the premises shall be protective of all who shall manage or administer said property in conformity therewith.

SECTION 9. In all cases and proceedings under this act, appeals may be taken to the supreme court from the orphans' court, as now provided by law in other cases, and in the court of common pleas, as provided in equity cases in the respective counties of the State: *Provided*, That if any decree be carried into execution before the appeal be perfected, and written notice thereof given to any vendee, mort-

gatee or lessee, any reversal thereof shall not affect the right or title of such vendee, mortgagee or lessee, but the purchase or mortgage moneys, or rents, shall stand in lien of the premises sold, or mortgaged, or leased, so far as thus encumbered: *Provided again*, That before any decree be carried into effect to afford such indemnity, twenty days be allowed from its entry, to take and perfect such appeal.

SECTION 10. That no person or persons shall, after the passing of this act, by any deed, will, or otherwise, settle or dispose of any real or personal property, so and in such manner that the rents issues, interest, or profits thereof, shall be wholly or partially accumulated for any longer term than the life or lives of any such grantor or grantors, settler or settlers, or testator, and the term of twenty-one years from the death of any such grantor, settler or testator; that is to say, only after such decease, during the minority or respective minorities, with allowance for the period of gestation, of any person or persons who, under the uses or trusts of the deed, will, or other assurance directing such accumulation, would, for the time being, if of full age, be entitled unto the rents, issues, interests and profits so directed to accumulate; and in every case where any accumulation shall be directed otherwise than as aforesaid, such direction shall be null and void in so far as it shall exceed the limits of this act; and the rents, issues, interests and profits so directed to be accumulated contrary to the provisions of this act, shall go to and be received by such person or persons as would have been entitled thereto if such accumulation had not been directed: *Provided*, That any donation, bequest, or devisee, for any literary, scientific, charitable or religious purpose, shall not come within the prohibition of this section, which shall take effect and be in force as well in respect to wills heretofore made by persons yet living, and of competent mind, as in respect to wills hereafter to be made: *And provided*, That notwithstanding any direction to accumulate rents, issues, interests and profits for the benefit of any minor or minors, it shall be lawful for the proper court, as aforesaid, on the application of the guardian, where there shall be no other means for maintenance or education, to decree an adequate allowance for such purposes, but in such manner as to make an equal distribution among those having equal rights or expectancies, whether at the time being, minors or of lawful age.

SECTION 11. That the directions given in the sixth section of this act in regard to the security to be given in cases of sales, mortgage or letting of real estate, and the condition of the bond or security therein prescribed, shall apply to all cases of sales or mortgage of real estate by order of the courts of this Commonwealth: *And provided*, That no decree for the sale, mortgaging or letting of any real estate under the provisions of this act shall be made, except when the president of the court, or the law judge or judges thereof, shall be present; and that the acts in relation to special courts, where the president judge shall be interested, related to parties in interest, or otherwise incapable of acting, shall apply to all such provisions.

A SUPPLEMENT to an act, entitled "An Act to encourage manufacturing operations in this Commonwealth," approved the 7th day of April, A. D., 1849.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same*, That the several provisions of the act to which this is a supplement, and the supplements thereto, so far as the same shall not be herein altered or supplied, shall be extended so as to embrace companies formed for mining coal and for mining and smelting copper, lead, tin, or zinc ores, and for quarrying marble or slate, with the right of preparing for market the produce of their said mines and quarries and vending the same.

SECTION 2. That all companies incorporated as aforesaid for opening coal mines and mining and preparing the coal for market, and all companies for manufacturing lumber, shall have the right to own, in fee simple or for a term of years, any amount



of land necessary for the purposes of said corporation, not exceeding at any one time two thousand acres; and all companies for mining and smelting copper, lead, tin or zinc ores, or for quarrying marble or slate, shall have a right to hold land as aforesaid, not exceeding one thousand acres; and the mining companies aforesaid may, after opening their said mines and erecting the necessary machinery and fixture for mining purposes, lease to others the right of mining and vending the product of their said mines respectively.

SECTION 3. That the stockholders in all companies hereafter incorporated in pursuance of the provisions of this act, or the act to which this is a supplement, and the several supplements thereto, shall be jointly and severally liable in their individual capacities for all debts and contracts made by said companies, for all labor done, and for all machinery and other materials furnished for said companies respectively, to be enforced and collected in the manner provided in the act to which this is a supplement.

SECTION 4. That in all cases of corporations erected under this act or the acts to which it is supplementary, the certificate required, before being recorded, shall be submitted to, and examined by, the Attorney General of the Commonwealth, and by him certified to be properly drawn and signed, and that the same is in conformity with the provisions of the constitution and laws of this Commonwealth for which service the persons applying for such corporation shall pay him ten dollars.

## AN ACT RELATING TO THE PAYMENT OF CLAIMS AGAINST THE COMMONWEALTH.

SECTION 1. *Be it enacted, &c.*, That in all cases of claims now subsisting, or which may hereafter arise against the Commonwealth for damages on the public improvements or otherwise, in behalf of her citizens, the courts of common pleas of the several counties, shall, upon the petition of the person or persons prosecuting such claim, to the court of the county in which he, she, or they may reside, or where the damage or claim may have arisen, stating the nature and extent of the claim, verified by affidavit, direct an issue in the nature of a feigned issue, as upon a wager, wherein the said party petitioning shall be named as plaintiff, and the Commonwealth of Pennsylvania as defendant, to try the question whether any thing be due the said plaintiff or not: *Provided*, That appeals and writs of error may be sued out by either party, to the supreme court of the State, as in other cases, and the payment of costs be made as in cases of individuals: *And provided also*, That no such issue shall be directed until notice of such application shall be given to the Auditor General and State Treasurer, with a specification of the items and nature of such claim, and a reasonable time shall be allowed at the discretion of the court, for the Commonwealth to appear and object thereto, or be heard in the premises: *And provided also*, That if in the opinion of the court the damages found by the jury shall be greater than the court trying the cause shall think the claimant entitled to, the said court shall grant new trials: *And provided also*, That the Commonwealth shall be entitled to all the benefits arising from lapse of time, as well as the statutes of limitations in all such proceedings or suits.

SECTION 2. That if final judgment shall in such case be in favor of the claimant, he, she, or they shall be paid the amount of said judgment, together with legal costs by the State Treasurer, out of any moneys in the Treasury not otherwise appropriated, on a certificate being presented to the Auditor General of the amount of said judgment and costs from the prothonotary of the proper court, under his seal of office; whereupon the said Auditor General shall draw his warrant on the State Treasurer for said amount, who shall then pay the said judgment and costs in the same manner as if an appropriation for said money had been made by an act of the Legislature.

SECTION 3. That the accounting officers of the Commonwealth shall employ counsel and pay them a reasonable compensation for attending to the interests of the Commonwealth in all such cases.

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### A FURTHER SUPPLEMENT TO THE ACT ENTITLED "AN ACT CONCERNING DIVORCES."

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same,* That in addition to the cases now provided by law, it shall be lawful for the courts of common pleas of this Commonwealth to grant divorces in the following cases :

I. Where either of the parties were minors at the time of the celebration of the alleged marriage, and the same was contracted without the consent of the parents or guardians of such minor, and has not been followed by cohabitation subsequent to such alleged marriage.

II. Where such alleged marriage was procured by fraud, force, or coercion, and has not been subsequently confirmed by the acts of the injured party.

III. Where the parties have mutually agreed to a separation, and such separation has taken place and been continued for six years, except where the application is made by the party whose adulterous practices or cruel and barbarous treatment may have been the cause of the separation.

SECTION 2. That the proceedings in cases embraced within the provisions of this act shall be the same as those prescribed by the act entitled "An Act concerning divorces," approved the thirteenth March, one thousand eight hundred and fifteen, and the several acts supplementary thereto, with the like right of appeal as is therein given.

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### AN ACT IN RELATION TO CHANGING THE PLACES FOR HOLDING GENERAL ELECTION.

SECTION 1. *Be it enacted, &c.,* That the provisions of the fifty-sixth section of the act of 2d July, A. D., 1839, entitled "An Act relating to the elections of this Commonwealth," be and the same are hereby extended to applications to change the place for holding general elections ; and that the meetings directed by that section shall be conducted by the officers of the last preceding general election, who shall conduct the same in the same manner in which the general elections are by law required to be held and conducted, with the same penalties and punishments for frauds or misconduct in officers, persons offering to vote, or others, as is prescribed by said act and its supplements ; and in case of the absence or inability of any such officer to serve, the vacancy or vacancies shall be filled in the manner described by said acts.

SECTION 2. That in all cases in which new townships shall be erected, the court of quarter sessions erecting the same shall fix the places for holding the elections, which shall continue to be the place for holding elections therein until the same shall be changed according to the provisions of the preceding section of the said act of 2d July, 1839 ; and the said courts shall also appoint the officers for holding the first election in any township so erected.